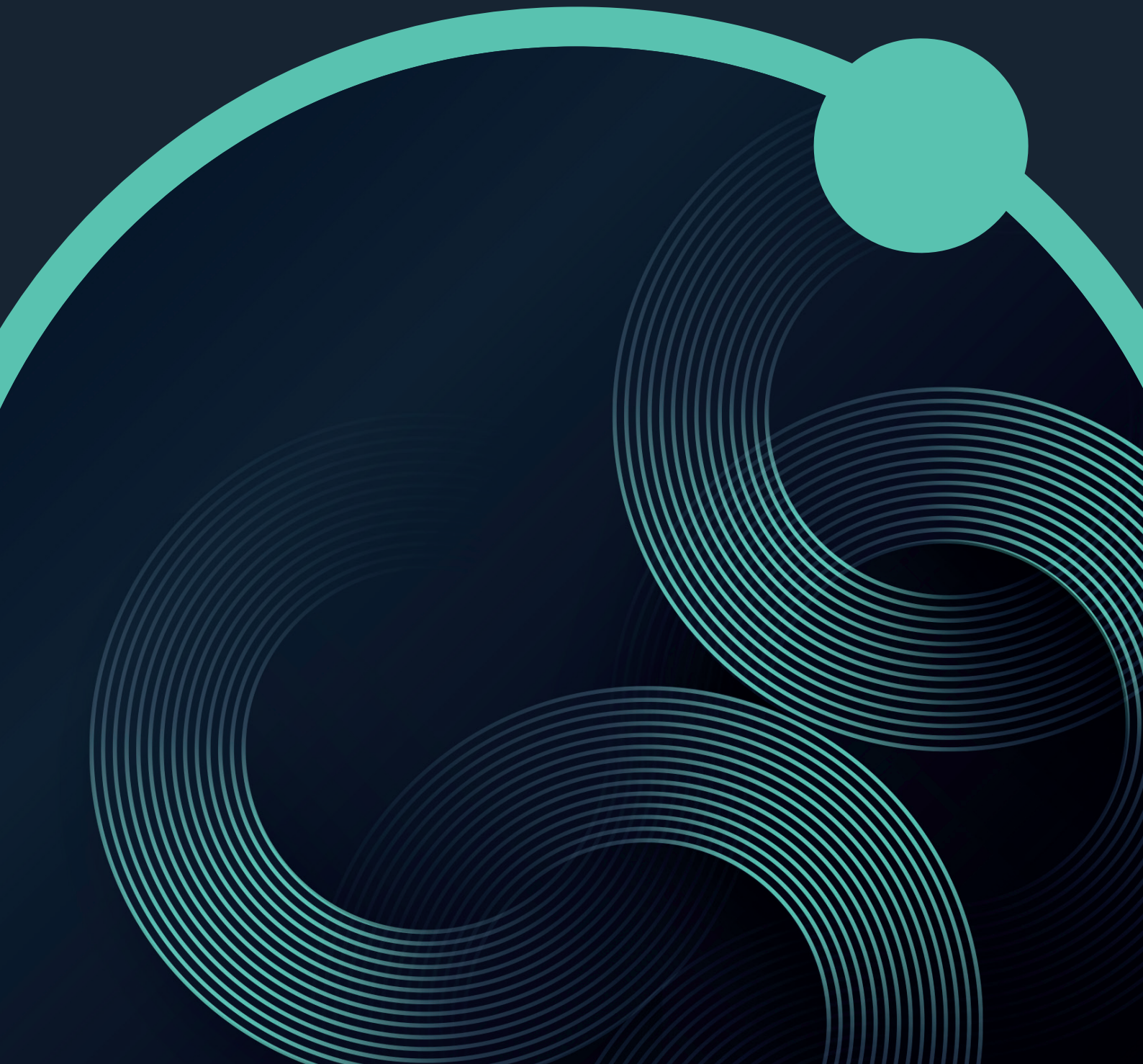
mhc
coimisiún meabhair - shláinte
mental health commission

Mental Health Commission Annual Report 2023

Including the report of the Inspector of Mental Health Services and the report of the Director of the Decision Support Service



More Information

www.mhcirl.ie
www.linkedin.com/company/mentalhealthcommissionirl
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TABLE OF CONTENTS

This report may be cited as follows: 'Mental Health Commission 2023 Annual Report (2024), Mental Health Commission, Dublin, Ireland.'

CHAIRPERSON'S STATEMENT

It has been a great honour and pleasure to Chair the Mental Health Commission through another year of expanding responsibilities and output. On behalf of the Mental Health Commission (MHC), I want to acknowledge and thank the Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman TD; Minister of State for Mental Health and Older People, Mary Butler TD; Minister of State for Disability, Anne Rabbitte TD; and their departmental teams for their responsiveness and support for all the MHC statutory activities during 2023.

In 2023 the MHC launched its five-year strategy "Supporting Change". The development of this new strategy involved wide and intensive consultation with service users, family members, service providers, clinicians, professionals as well as State bodies, departments of state and non-governmental organisations. It charts an ambitious course for the next five years to realise the MHC vision of an Ireland with equity of access to person-centred mental health and decision support services that deliver high-quality care and support.

Throughout 2023, the MHC continued to enhance its core objectives. These are to drive standards, improve quality, and safeguard service users by working with all stakeholders. The MHC supported the continuing roll out of "*Sharing the Vision*", Ireland's mental health strategy. The MHC continues to work with government to strengthen the quality and regulatory infrastructure which vindicates human rights of all persons who use mental health and decision support services.

The MHC particularly welcomes and supports the significant work that was done in 2023 in the development of a new mental health Act. This Act will expand the MHC remit to include the regulation of community services including child and adolescent mental health services (CAMHS). The commencement and swift roll out of this Act is key to modernising Ireland's regulatory framework to support the delivery of better and safer mental health services.

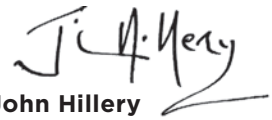
The MHC also welcomes the commencement of government legislation to vindicate the voting rights of those in long-term residential facilities. The MHC has established a working group to promote this change and to support those in approved centres and 24-hour residential facilities to use their right to vote.

In 2023, the MHC undertook intensive work to deliver Ireland's first ever Decision Support Service (DSS). In collaboration with and supported by the Department of Children, Equality, Disability, Integration and Youth, we have commenced a service that puts Ireland to the forefront of vindicating human rights and ensuring that all people in Ireland, who

may need support in making decisions, have a service that is focused on their will and preferences. The MHC is determined that the DSS will play an integral role in delivering the much-needed reforms introduced by the Assisted Decision-Making (Capacity) Act 2015 by prioritising the needs of the individual for decision supports, adopting a digital-first strategy to promote access, and foster a skilled empathetic workforce to deliver and respond to the welcoming and more inclusive attitude of Irish society to those who need support in making decisions.

To implement our expanding statutory mandates, the MHC continues to operate to the highest corporate governance standards. This ensures that we are an effective, cohesive and transparently-governed organisation that is independent in function and at all times acts in the public interest. I particularly want to acknowledge the development and implementation of our "Climate Action Roadmap" with the goal of halving our carbon footprint, including greenhouse gas (GHG) emissions, and ensuring a 50% improvement in our energy efficiency by 2030.

In conclusion, I am privileged to be the Chairperson of the MHC and to work with a Board who are demonstrably committed to promoting the highest standards in human rights-based mental health care and decision support services. The MHC has a skilled and committed executive body with a highly-motivated Chief Executive and Senior Leadership Team. The culture of the MHC stems from this leadership, and is manifest in the hard-working, committed and compassionate staff we have throughout the organisation. I want to thank all the staff of the MHC for their diligence and dedication during 2023.



John Hillery
Chairperson

"I particularly want to acknowledge the development and implementation of our "Climate Action Roadmap" with the goal of halving our carbon footprint, including greenhouse gas (GHG) emissions, and ensuring a 50% improvement in our energy efficiency by 2030.

CHIEF EXECUTIVE'S REVIEW

I would like to thank all the staff of the Mental Health Commission (MHC), our Board Members and all people throughout Ireland who work continually to improve mental health services at a time of great change in Irish society.

In 2023, it was a great privilege for the MHC to launch the Decision Support Service (DSS). As Chief Executive of the MHC, I am proud to note the first report of Áine Flynn, the Director of the DSS. The report sets out how our new person-centred, accessible service with a digital-first approach is delivering for people across all parts of Ireland. The first report of the Director provides a picture of the complexity and detail of the service. I want to thank the various professional and state bodies who continue to support the DSS in our work.

The MHC also has a function in law 'to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services'. With the service user at the centre of our work, we delivered a programme of regulation in 2023 which targeted risk and promoted quality and safety in services. Our programmes of registration, inspection, monitoring and enforcement continued to support providers and hold services to account. The publication of both national and individual centre inspection reports ensured a transparency for the public to clearly understand both the strengths and weaknesses of services.

The MHC also engaged in a number of quality improvement initiatives during the year, including the publication of **the National Quality Framework: Driving Excellence in Mental Health Services**, the ongoing development of standards for community mental health services, and the joint MHC and World Health Organization launch of the '**Quality Rights**' training module which is designed to support people to understand a human rights model of mental health care. I want to thank all the service providers including the HSE, clinicians, NGOs, An Garda Síochána and the Irish Prison Services who all supported this initiative.

The MHC is also custodian of the process for vindicating the rights of patients who are involuntarily detained in approved centres. We want service users to know that we are independent. We exist to vindicate their rights at all times. I want to thank our panels of legal practitioners, psychiatrists and lay persons, as well as all professionals and centre staff who worked hard to ensure each person who was involuntarily detained received a tribunal in 2023. This report identifies that the number of revocations of detentions due to issues of procedural non-compliance has decreased. It also identifies that the number of applications for involuntary detention by An Garda Síochána

is down by 4%, while applications from HSE 'Authorised Officers' is up 2%, which is disappointing given the focus on the matter over the last few years.

In his first report as Inspector of Mental Health Services, Professor Jim Lucey points to the fact that acute inpatient centres are an essential part of our mental health service and require planned, strategic investment. Currently, a number of acute inpatient centre providers, particularly the HSE, are struggling to meet minimum regulatory standards in key areas of staffing, care planning, risk management and premises. The Inspector points to the fact that lower standards of compliance in these areas are associated with negative experiences for patients and staff alike and are not compatible with a human rights-based approach. The Inspector and the MHC continues to call for a targeted funded strategic investment programme in our public mental health system.

In conclusion, this report transparently sets out the work of the MHC, including our new Decision Support Service. At a time when society clearly recognises the value of mental health and decision support, it is imperative that the State continues to invest in the expansion of public services to ensure that well-staffed multidisciplinary teams deliver person-centred services in a way that sustains hope, choice and dignity.

John Farrelly
Chief Executive

> The MHC is also custodian of the process for vindicating the rights of patients who are involuntarily detained in approved centres. We want service users to know that we are independent. We exist to vindicate their rights at all times.

2023 in Brief

2,666
registered inpatient beds in 66 approved centres

52
enforcement actions related to 29 approved centres

5
centres achieved 100% compliance with regulations

67%
of all approved centres achieved an 80% rate of compliance or higher with the regulations

10
regulations were fully complied with by all 66 approved centres

21
individual regulations had a compliance rate of 80% or higher compared to 25 regulations with a compliance rate of 80% or higher in 2022

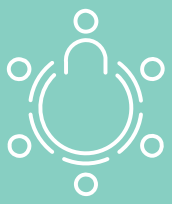
There was
100%
compliance with the rules and code of practice on ECT

No individual service had a regulation compliance rate lower than
60%

529
deaths of people using mental health services were reported to the MHC. Of these, 149 deaths related to approved centres and 380 related to other community mental health services.

46
Instances of overcapacity

14
child admission to 11 adult units. This compares to 20 admissions to 11 adult units in 2022



3,638
orders for Mental Health Tribunal hearings

565
admissions notified to the MHC went from voluntary to involuntary

1,951
admission orders from the community

76
presentations to DSS stakeholder organisations to thousands of people

14,165
phone calls and emails from the public to the DSS

460
decision-support arrangement applications submitted

Who We Are

Vision, mission and values

The Mental Health Commission (MHC) is an independent statutory body established under the provisions of the Mental Health Act 2001. The remit of the MHC incorporates the broad spectrum of mental health services for all ages in all settings.

In addition, under the provisions of the Assisted Decision-Making (Capacity) Act 2015, the MHC is responsible for the Decision Support Service to support decision making by and for adults with capacity difficulties.

Our Vision 2023-2027

Equity of access to person-centred mental health services and decision support services that deliver high-quality care and support.

Our Mission 2023-2027

Promotion and vindication of human rights in relation to mental health services and decision support services.

Our Values 2023-2027

Person-centred
We believe in person-centred support; empowering individuals, and their supporters, to be co-creators in their care, recovery and decision-making.

Human Rights	Quality	Independence and Accountability	Dignity and Respect	Expertise
Human rights underpin our approach to everything we do, the services we provide and the services we regulate.	We commit to carrying out our functions to the highest standards and in accordance with our legal mandates.	To successfully achieve our mission and vision we must be independent, transparent and accountable to our stakeholders and the public on whose behalf we work.	Everyone should be treated with dignity and respect. We demonstrate this value through our interactions both within the MHC and with our external stakeholders.	We value and respect the expertise of our team and those professionals we engage with, thereby ensuring our work is evidence-based and in line with best practice.

Strategic Priorities 2023-2027

Strategic Priority 1:
Continue to be a leading voice in relation to mental health services and assisted decision-making.

Strategic Priority 2:
Effective and accessible communication and engagement, emphasising and promoting the voice of the person.

Strategic Priority 3:
Continue to drive standards, improve quality and safeguard persons in relation to mental health services that are regulated by the MHC.

Strategic Priority 4:
Promote and support assisted decision-making in society by embedding the Decision Support Service as a respected public service.

Strategic Priority 5:
Be an effective, cohesive, transparently governed and agile organisation acting in the public interest.

Mental Health Commission Members April 2022 – April 2027

The Members of the Mental Health Commission (MHC) are known as the Commission and are the governing body of the organisation. The Commission has 13 Members - including the Chairperson - who are appointed by the Minister for Health. Section 35 of the Mental Health Act 2001 (the 2001 Act) provides for the composition of the Commission. In December 2015, the MHC's remit was extended to include the establishment of the Decision Support Service (DSS) under the provisions of the Assisted Decision-Making (Capacity) Act 2015 (the 2015 Act).

Details of the Commission's membership and meeting attendance for 2023 can be found in Appendix 1, 2 and 3 on page 96.

During 2023, the Commission had two standing committees. These were the Finance, Audit and Risk Committee, and the Legislation Committee.

Details of both committees can be found in Appendix 2 and 3 on page 96.

John Hillery (Dr)

First Appointed 02/11/2020 End of Term 04/04/2022
Reappointed 05/04/2022 End of Term 04/04/2027
Position Type: Member. Reappointed as Chairperson
Basis of Appointment:
Nominated by the College of Psychiatrists in Ireland. Appointed by the Minister of State for Mental Health and Older People.

Rowena Mulcahy

First Appointed 26/09/2017 End of Term 04/04/2022
Reappointed 05/04/2022 End of Term 04/04/2025
Position Type: Member
Basis of Appointment:
Nominated and appointed by the Minister for Health following Public Appointments Service (PAS) Process.

Michael Drumm (Dr)

First Appointed 05/04/2017 End of Term 04/04/2022
Reappointed 05/04/2022 End of Term 04/04/2025
Position Type: Member
Basis of Appointment:
Nominated by the Psychological Society of Ireland. Appointed by the Minister of State for Mental Health and Older People.

Margo Wrigley (Dr)

First Appointed 05/04/2017 End of Term 04/04/2022
Reappointed 05/04/2022 End of Term 04/04/2025
Position Type: Member
Basis of Appointment:
Nominated by the Irish Hospital Consultants Association. Appointed by the Minister for Health.

Fionn Fitzpatrick

First Appointed 12/02/2021 End of Term 04/04/2022
Reappointed 05/04/2022 End of Term 04/04/2027
Position Type: Member
Basis of Appointment:
nominated by the Voluntary Sector. Appointed by the Minister of State for Mental Health and Older People.

John Cox (Dr)

First Appointed 12/02/2021 End of Term 04/04/2022
Reappointed 05/04/2022 End of Term 04/04/2027
Position Type: Member
Basis of Appointment:
nominated by the Irish College of General Practitioners. Appointed by the Minister of State for Mental Health and Older People.

Ray Burke

First appointed: 05/04/2022
End of Term: 04/04/2027
Position Type: Member
Basis of Appointment: nominated by PAS; appointed by the Minister of State for Mental Health and Older People.

Joseph Duffy (Dr)

First appointed: 05/04/2022
End of Term: 04/04/2027
Position Type: Member
Basis of Appointment: nominated by Jigsaw; appointed by the Minister of State for Mental Health and Older People.

Tammy Donaghy

First appointed: 05/04/2022
End of Term: 04/04/2027
Position Type: Member
Basis of Appointment: nominated by Spunout; appointed by the Minister of State for Mental Health and Older People.

Orla Healy (Dr)

First appointed: 05/04/2022
End of Term: 04/04/2027
Position Type: Member
Basis of Appointment: nominated by the HSE; appointed by the Minister of State for Mental Health and Older People.

Martina McGuinness

First appointed: 05/04/2022
End of Term: 04/04/2027
Position Type: Member
Basis of Appointment: nominated by the Psychiatric Nurses Association (PNA); appointed by the Minister of State for Mental Health and Older People.

Linda Curran

First appointed: 05/04/2022
End of Term: 04/04/2027
Position Type: Member
Basis of Appointment: nominated by the Irish Association of Social Workers (IASW); appointed by the Minister of State for Mental Health and Older People.

Catherine Cocoman

First appointed: 05/04/2022
End of Term: 04/04/2027
Position Type: Member
Basis of Appointment: nominated by Nursing & Midwifery Board of Ireland; appointed by the Minister of State for Mental Health and Older People.

Additional Roles

Secretary to the Commission: Orla Keane

Chair of Finance, Audit & Risk Committee (FARC): Orla Healy (Dr) (appointed as Chair in May 2022)

Chair of Legislation Committee: Michael Drumm (Dr) (appointed as Chair in July 2021)

Chief Risk Officer: Brian Gillespie

Senior Leadership Team at the MHC

Chief Executive
John Farrelly

General Counsel for the MHC (DSS)
Orla Keane

Inspector of Mental Health Services
Dr Susan Finnerty
(Retired July 2023)

Inspector of Mental Health Services
Prof Jim Lucey
(Appointed July 2023)

Director, Decision Support Service
Áine Flynn

Director of Regulation
Gary Kiernan

Chief Operations Officer
Brian Gillespie

What We Do

Our work includes regulating inpatient mental health services; protecting the interests of people who are involuntarily admitted; and setting standards for high quality and good practices across mental health services.

In addition, under the provisions of the Assisted Decision-Making (Capacity) Act 2015, the MHC is responsible for the Decision Support Service to support decision making by and for adults with capacity difficulties.

Annual Report of the Director of the Decision Support Service

Annual Report of the Director of the Decision Support Service

Table of Contents

Director's Foreword

The publication of the Director's first annual report under section 102 of the Assisted Decision-Making (Capacity) Act 2015 (as amended) (the 2015 Act/the Act) marks another important milestone for the Decision Support Service. This report provides information on the activities of the Director from the long-awaited commencement of the Act on 26 April 2023 until the end of 2023.

The Decision Support Service (DSS) is a statutory service within the Mental Health Commission, delivering the functions assigned to the Director under the 2015 Act.

Sometimes 'the DSS' is spoken of as if it is interchangeable with the 2015 Act itself. The 2015 Act is, of course, broader than the work of the DSS. The Act establishes a new framework of supports underpinned by rights-based principles. Its successful implementation depends on the collaborative effort of diverse stakeholders, including the courts, health and social care professionals, legal and financial services professionals and other providers.

The DSS team are staff of the Mental Health Commission, subject to the MHC's governance and reporting structures and funded by the Department of Children, Equality, Disability, Integration and Youth.

The DSS has five principal teams, each headed by an Assistant Principal who is a member of the Decision Support Service Management Team. The five teams are:

- Registration
- Supervision
- Complaints and Investigations
- DSS Panels
- Operations, incorporating Information Services

As of the end of 2023, the DSS was staffed by 67 full time equivalent members of staff, very capably supported by our MHC corporate operations colleagues including the Legal, Financial, IT and Communications teams.

In this report, the head of each division has provided an overview and data on their activities in the first eight months of operation following commencement. As a public-facing service, it is important for the DSS to draw on all its data sources to inform our operations and support our goal of continuous improvement.

This report also provides an opportunity to reflect on the DSS Establishment Project and includes an overview of that project, its six main workstreams and multiple sub-projects.

Communications and awareness-raising are at the heart of what the DSS does. We are statutorily obliged to communicate information about the 2015 Act and the role of the DSS. Our communications activities are aligned to the MHC's strategic plan which has as one of its priorities the embedding of the DSS as an authoritative public voice in relation to all matters connected to the 2015 Act.

The finalisation of the public consultation and publication of our suite of Codes of Practice was a significant exercise. These codes are available on the DSS website with associated guidance materials and a bank of 'stories' to show how the codes can operate in practice. For their work on the initial draft codes, we thank the teams led by the National Disability Authority and the HSE Ministerial Working Group.

This report sets out the extensive and diverse calendar of engagements undertaken by the DSS in 2023. We presented to audiences including healthcare professionals, legal professionals, banking and financial services providers and their representative bodies, disability services, NGOs, regulators, the Courts Service and the judiciary. Our most important - and often most rewarding - engagements have been with our potential service users and their families.

To understand better the needs of our service users we established a stakeholder forum of experts by experience who provided very valuable feedback on the DSS system and resources.

As illustrated in this report, the demand for information from the DSS, which was already high at the time of commencement, has steadily increased since.

Our public information campaign with the theme, 'My Decisions, My Rights', formed a central part of our communications from commencement until the end of the year. In this campaign, we were fortunate to be supported by our superb DSS champions, who so generously shared their stories about what the Act and the DSS could mean for them. We are very grateful for everything they have done to raise awareness of our service and wish them the very best with all their plans.

As I said on the eve of commencement last April, the DSS has benefitted hugely from a collaborative approach and the input of colleagues in the wider MHC and in other organisations and bodies. It is important that this continue as we go forward. I am most grateful to my DSS team, my colleagues on the MHC Senior Leadership Team, the Chief Executive and the Board for their guidance and also to the Inter-Departmental Steering Group and Ministers Roderic O'Gorman and Anne Rabbitte and their Department officials for their interest and commitment to the DSS project.

The 2015 Act is complex, deeply principled legislation, ambitious in scope and to some extent challenging both on the page and in practice. It is a statutory requirement that its performance and that of the DSS be held up to scrutiny. There is a great deal of encouragement to be drawn from these first months since commencement and it has been a privilege to serve in the role of Director at this most interesting time.

Áine Flynn
Director of the Decision Support Service

In this campaign, we were fortunate to be supported by our superb DSS champions, who so generously shared their stories about what the Act and the DSS could mean for them. We are very grateful for everything they have done to raise awareness of our service and wish them the very best with all their plans.

A Year in Review – By the numbers

26 April 2023
DSS opens doors

460
Applications submitted

25
Complaints about decision supporters

30
Requests for nominations from the panel of decision-making representatives

83
Decision-making representation orders registered

9,407
Calls on our dedicated phoneline

4,758
Queries managed by email

93
Decision support arrangements under supervision

13
Codes of Practice published

32
Forms specified with the consent of the Minister

19,000
Average unique visitors to the DSS website each month by year end

9
'Champions' in public information campaign

DSS Establishment Project

Following the appointment of the Director in October 2017, the project to establish the Decision Support Service commenced formally in 2018.

At the outset, the vision for the DSS was for a person-centred, accessible service with a digital-first approach. The task was to design and build a new service that realised this vision while performing statutory functions under complex reforming legislation. With only the Act itself as a blueprint, the DSS had to map out an organisation, undertake demand forecasting and use this to develop a workforce plan, isolate over 50 business processes to be delivered by an ICT system and secure approval for a costed timebound plan to take the DSS to commencement.

The DSS adopted five key design principles as can be seen in **Figure 1** to inform all stages of the DSS design and operations.

- Put the needs of the relevant person first
- Adopt a digital first strategy
- Resource with an empowered, skilled, empathetic workforce
- Deliver a performance-driven culture
- Respond to the changing needs of society

Figure 1 *The five key design principles*

The implementation programme consisted of 29 projects across six workstreams. The workstreams and associated projects are shown in **Figure 2**.

Early key milestones included:

- Extensive engagement with stakeholders across multiple sectors
- Senior DSS management team in place
- Detailed business processes designed
- Department of Justice approval for the ICT project and work on the online digital portal well advanced.
- DSS website launched

Once the amended legislation was passed and the commencement date of 26 April 2023 set, the remaining projects critical for commencement took precedence. This included such projects as the core ICT System development, development of the Codes of Practice, stakeholder engagement and content management.

In addition to the recruitment of the DSS team, (who are staff of the MHC), the DSS undertook the recruitment, vetting and training of external panels of professional decision-making representatives available to be appointed by the court, as well as special and general visitors to assist with our supervision and investigation functions.

Throughout 2023, the DSS also continued preparations for its forthcoming role as Central Authority under the Hague Convention on the International Protection of Adults.

From the beginning, the DSS sought to deliver a person-focused and digital first - but not digital-only - service. These principles are viewed as complementary. The primary purposes of the DSS are:

- to inform people about the decision supports available under the 2015 Act,
- to facilitate the registration of decision support arrangements and
- to supervise their performance in line with the guiding principles of the Act.

To carry out these purposes effectively and to plan for increasing volumes of applications, the service must be efficient. The DSS adopted a digital-first approach in line with government policy and based on research on the experience of other jurisdictions. However, it is acknowledged that while technology can be a great enabler of access, it will present obstacles to certain service users.

In the first eight months of operations, the DSS has been very encouraged by the percentage of applicants opting to use the DSS digital portal. By promoting and supporting the adoption of the digital processes as far as possible, the DSS will be able to concentrate on addressing the accessibility issues of the minority of service users who require a non-digital alternative.

Since the commencement of the Act, there remains a small number of projects on which work continues such as non-core development of the ICT system and the development of Key Performance Indicators. All other projects have now closed, and some have now moved to a business-as-usual objective.

As with all DSS functions, it has been important for the DSS to keep the performance of the ICT system under review. After commencement, the DSS has continued to work on the deployment of additional functionality and system enhancements with the aim of providing a better experience for the DSS service user.

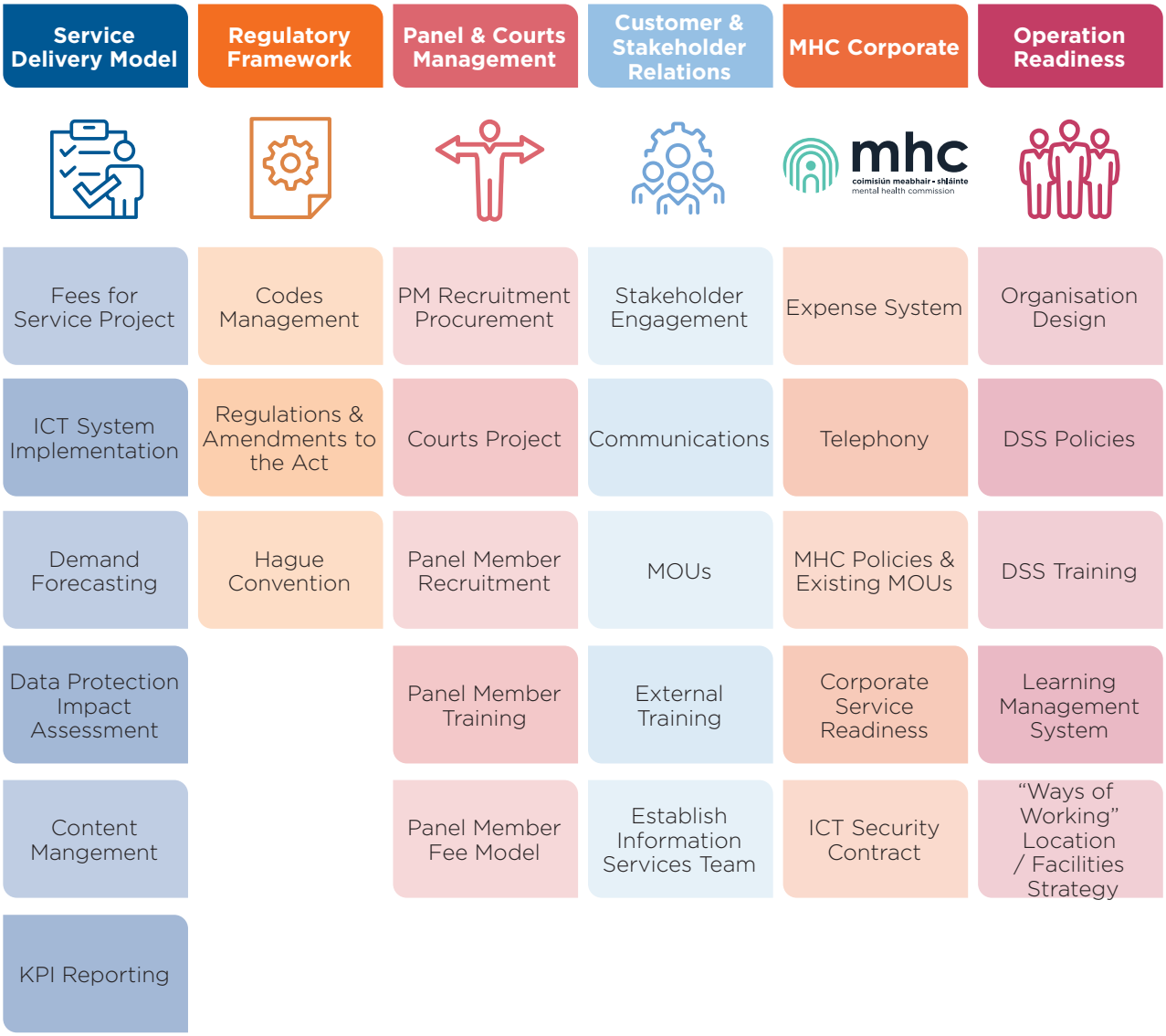


Figure 2 *The six workstreams and associated projects*

Registration Function

All co-decision-making agreements, decision-making representation orders and enduring powers of attorney[1] must be registered with the DSS.

In addition, all decision-making assistance agreements and enduring powers of attorney must be notified to the DSS to be given legal effect.

Each decision support arrangement has specific requirements relating to:

- Information about the parties
- Content of the arrangement
- Signing and witnessing
- Notice parties
- Supporting statements

Upon receipt of a decision support arrangement, we review it to ensure it meets statutory requirements.

We also review any objections made to the registration of co-decision-making agreements and enduring powers of attorney, as well as to the notification of an enduring power of attorney.

We maintain registers of the following decision support arrangements:

- Co-decision-making agreements
- Decision-making representation orders
- Enduring powers of attorney

These registers are searchable by prescribed professionals and organisations, as well as by members of the public who can show that they have a legitimate interest in searching the register.

In 2023, we received –

- 15 submitted decision-making assistance agreements and acknowledged notification of nine[2].
- 29 submitted applications for the registration of co-decision-making agreements and registered ten[3].
- 185 decision-making representation orders from the court and registered 83[4].
- 407 submitted applications for the registration of enduring powers of attorney and registered 38[5].
- two applications for notification of enduring powers of attorney and accepted one.

On receipt, we have a statutory function to review applications prior to registration and there is a statutory five-week objection period for some applications that allow objections to be raised by certain parties. These include applications for the registration of co-decision-making agreements or enduring powers of attorney, or the acceptance of notification of an enduring power of attorney.

The DSS saw an uptake of the decision-making representation orders towards the latter half of 2023. The process for making these orders is with the various Circuit Courts and the High Court, and the orders then come to the DSS for registration.

We managed 3,145 calls with service users and responded to 724 email queries from service users, ensuring queries were responded to in a reasonable timeframe.

1 All new enduring powers of attorney made under the Assisted Decision-Making (Capacity) Act 2015.

2 There were also 96 active applications for a DMAA on the DSS portal at end of year, and 15 submitted DMAA applications

3 There were also 61 active applications for a CDMA on the DSS portal at end of year, and 29 submitted CDMA applications

4 There were also 18 submitted DMAA applications at end of year

5 There were also 1,671 active applications for an EPA on the DSS portal at end of year, and 407 submitted EPA applications

We charge a small fee for some of our services such as the registration of applications or searching the register. It is important that this fee is not a barrier to entry, therefore there is a fee waiver available for those who are[6] eligible. The total fees collected in 2023, following commencement, was €21,477.

The registration team managed 3,145 calls and responded to 724 email queries from service users to assist them with their queries seeking to register arrangements

[6] Further information is available on the Decision Support Service website.

Supervision Function

We supervise all co-decision-making agreements and decision-making representation orders that are registered with the DSS. We also supervise enduring powers of attorney made under the 2015 Act that have been notified and brought into effect.

In 2023, we were notified of the registration of **ten** co-decision-making agreements and **83** decision-making representation orders. We were also notified of the accepted notification of **one** enduring power of attorney.

At the outset we support decision supporters in understanding their functions and the supervision process. We do this by contacting each decision supporter and providing them with information about:

- their role and function
- relevant Codes of Practice
- relevant guidance material
- their reporting requirements

In 2023, we made **186** formal 'first contact' calls to decision supporters to provide information about their function and reporting requirements.

We review reports submitted by co-decision-makers, decision-making representatives and attorneys (appointed under an enduring power of attorney) to verify that each decision supporter is complying with the 2015 Act and acting within the scope of their authority.

Initial reports and annual accounts

Where a decision supporter has authority to make decisions about a person's property and affairs, they must provide an initial report to us within three months of being active in their role. This includes a decision-making representative appointed under a decision-making representation order and an attorney appointed under an enduring power of attorney which has been notified and brought into force.

The initial report includes a schedule of the person's current assets and liabilities and a statement of their projected income and expenditure.

In 2023, we received **51** initial reports from decision-making representatives and attorneys appointed under an enduring power of attorney.

Where a decision supporter has authority to make decisions about a person's property and affairs, they must also provide us with annual accounts, which we review against the initial report.

Annual reports

All co-decision-makers, decision-making representatives and attorneys appointed under an active enduring power of attorney must provide an annual report to us. The annual report must provide details on the performance of their functions, decisions made or supported, and expenses incurred.

In 2023, we did not receive any annual accounts or reports as we were only operational for a period of eight months.

Complaints and Investigations Function

Anybody can make a complaint to us about an appointed decision supporter or active decision support arrangement made under the 2015 Act.

We can also investigate complaints about an attorney appointed under the Powers of Attorney Act 1996 (the 1996 Act).

Complaints and Investigations Procedures

In 2023, we published our **Complaints and Investigations Procedures** on our website, which contains detailed information about:

- Who can make a complaint
- How you can make a complaint
- What complaints we can investigate
- What happens after you make a complaint
- What happens if you withdraw your complaint
- The possible outcomes of the complaints process
- How we manage information and apply fair procedures.

We also published a Complaints Form which can be completed and returned to us by email to complaints@decisionsupportservice.ie or by post.

When we receive a complaint, we review it to ensure that it is a matter that comes within our remit to investigate. If it is within our remit, we are required to form a view as to whether or not it is well-founded within three months of receiving the complaint. We can extend this timeframe by a further six months on notice to the parties. In situations where a complaint is well-founded, we can refer the matter to court for a determination. However, the Director has discretion to try to resolve the complaint informally. If it is not resolved informally, we can then refer the matter to court.

Some recurring issues in the complaints received included:

- decision supporters appointed to act jointly not communicating sufficiently with each other, resulting in decisions being made by one decision supporter
- decision supporters making decisions on behalf of the relevant person that are not included in the decision support arrangement
- decision supporters acting at a higher level than appointed, for example, a decision-making assistant acting as a decision-making representative

Complaint statistics

During 2023, we received 25 complaints. Four of these related to decision supporters or decision support arrangements made under the 2015 Act. Twenty-one related to an attorney appointed under the 1996 Act.

On 31 December 2023, there were eight ongoing investigations, one complaint was at the screening stage, eight complaints were screened out, four were discontinued, one was withdrawn, and three were completed with findings of not-well-founded.

Of the eight complaints screened out, seven were screened out because there was no active arrangement in place, and one was screened out because the arrangement was invalid.

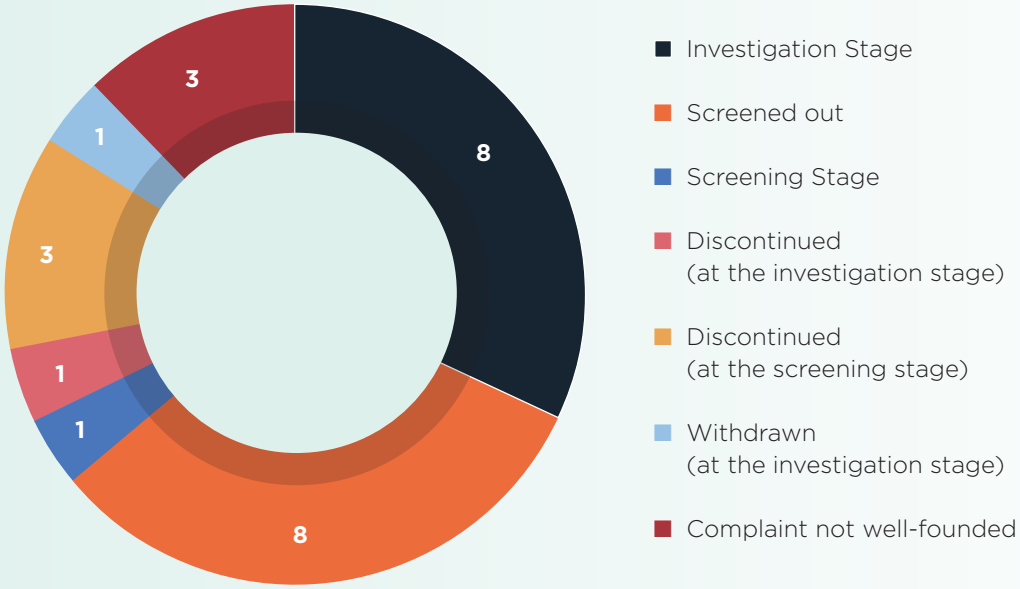
One investigation was discontinued at the investigation stage due to the death of the relevant person.

Three complaints were discontinued at the screening stage due to complainants failing to engage having made their complaint.

One complaint was withdrawn at the investigation stage as the parties had resolved the complaint.

During 2023, 16 complaints were closed due to them being discontinued, withdrawn, or viewed as not-well-founded.

Figure 3 *Status of complaints received as of 31 December 2023*



DSS Panels Function

The DSS maintains three panels to support the delivery of a number of our key functions as follows:

- Decision-making representatives
- General visitors
- Special visitors

On commencement, we established a panel of 92 decision-making representatives, 44 general visitors and 34 special visitors.

Decision-making representative panel

We maintain a panel of decision-making representatives who may be appointed by the court[7] to make certain decisions on behalf of a person when there is no other suitable person willing and able to do so.

In these circumstances, when the court decides to appoint a decision-making representative to make certain decisions on behalf of a person, it may ask us to nominate two or more suitable panel members from this panel.

In 2023, we received 30 requests for nominations from the panel of decision-making representatives. Sixteen of these were from the Circuit Court and 14 were from the High Court in respect of a person discharged from wardship.

Thirty-four panel members were appointed by the court as a decision-making representative under a decision-making representation order.

This is reflective of the court appointing more than one decision-making representative under the decision-making representation order. In these circumstances the court specifies whether the decision-making representatives shall act jointly (making decisions together) or jointly and severally (making decisions together or separately).

Of the 34 panel members appointed by the court as decision-making representative, three were for personal welfare decisions, five for property and affairs decisions and 26 were for both personal welfare and property and affairs decisions. The professionals appointed as decision making representatives from the panel include accountants, barristers, social workers and solicitors.

Table 1 below provides a geographic breakdown of appointments from the decision-making representative panel.

Table 1: *Appointments from the decision-making representative panel by area*

Area	Number of appointments
Dublin Circuit	*13*
Cork Circuit	*7*
Eastern Circuit	*3*
Midland Circuit	*8*
Northern Circuit	*0*
South-Eastern Circuit	*1*
South-Western Circuit	*2*
Western Circuit	*0*

We expect the rate of requests for requests for nomination from the panel of decision-making representatives to increase as the number of applications to the Court increase.

Special visitor panel

We can ask a special visitor to visit a person who has a decision support arrangement in place and undertake a capacity assessment. A special visitor is a medical practitioner or another professional who has knowledge, expertise and experience in relation to capacity. Such a request may arise from our function to supervise arrangements or to investigate complaints.

In 2023, we did not request any special visitors to undertake a visit.

General visitor panel

As part of our functions to supervise support arrangements and investigate complaints, we may identify the need to commission a general visitor. A general visitor is a person with relevant qualifications or other expertise or experience to assist with these functions.

We can request a general visitor to visit a person who has a decision support arrangement or their decision supporter to gather certain information and prepare a report.

In 2023, we did not require any general visitors to undertake a visit.

[7] The Circuit Court may appoint a decision-making representative following a part 5 application. The wardship court may appoint a decision-making representative following a discharge from wardship.

Information Services

The DSS has a dedicated Information Services Team which answers queries and provides information to the public on a wide range of matters relating to the 2015 Act and DSS services.

We operate a dedicated phoneline **01 211 9750** Monday to Friday. We also receive queries by post, and by email to queries@decisionsupportservice.ie.

In 2023, from 26 April onwards, we received 9,407 calls on our phoneline. We also managed 4,758 queries by email.

Key areas of interest included requests for information about:

- different decision support arrangements and how to make and/or register them
- general information about the 2015 Act
- how to create an account on our online portal 'MyDSS'

Website

The DSS maintains a website decisionsupportservice.ie. In 2023, we updated our website with important information about commencement of the DSS and how to access our services.

MyDSS online portal

We maintain an online portal called MyDSS, which allows members of the public to create an account and access DSS services.

A MyDSS account must be fully verified in order to access certain services, including applications to make certain decision support arrangements. The easiest way to verify an account is by using a verified MyGovID, but an alternative verification process is available.

In 2023, 9,462 people created an account on MyDSS. 6,008 people fully verified their MyDSS account with 4,354 people using MyGovID to complete the verification. A further 1,654 people verified their account using the alternative process.

Table 2 provides age profiles of those who access the MyDSS portal using a verified MyGovID.

Table 2: *Age profile of MyGovID-verified MyDSS account*

Age group	%
70 and above	37%
50-69	36%
30-49	24%
Below 30	3%

Tables 3 and 4 rank the top five and bottom five counties in terms of the number of residents with DSS accounts. These rankings are generally consistent with population distribution, based on the 2022 census.

Table 3: *Top five counties number of MyDSS accounts by total number*

Rank	County
1	Dublin
2	Cork
3	Galway
4	Kildare
5	Meath

Table 4: *Bottom five counties number of MyDSS accounts by total number*

Rank	County
26	Longford
25	Laois
24	Monaghan
23	Leitrim
22	Carlow

Codes of practice

In 2023, we published 13 Codes of Practice to provide essential guidance in relation to the practical implementation of the 2015 Act.

Five codes relate to decision supporters appointed under decision support arrangements:

- Code of practice for decision-making assistants
- Code of practice for co-decision-makers
- Code of practice for decision-making representatives
- Code of practice for attorneys
- Code of practice for designated healthcare professionals

Two codes relate to other interveners:

- Code of practice for special visitors
- Code of practice for general visitors

Two codes relate to healthcare matters:

- Code of practice for healthcare professionals
- Code of practice on Advance Healthcare Directives for healthcare professionals

Three codes relate to other persons and professionals interacting with relevant persons and their decision supporters:

- Code of practice for legal professionals
- Code of practice for financial service providers
- Code of practice for independent advocates

In addition to the Codes of Practice, we also published accompanying materials including a plain English guide to the codes, plain English leaflets and informational videos on each code. A database of 'DSS stories' was developed and can be found on the DSS website. They each help to demonstrate how the codes may work in practice.

Specified forms

The 2015 Act allows the DSS to create certain forms, with the consent of the Minister of the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), that will be used by people engaging with DSS services. This includes, for example, forms to create and register a decision support arrangement. This means the DSS can ensure, insofar as is possible, that the forms are clear, accessible and easy-to-use, while also compliant with legal requirements.

In 2023, the DSS specified 32 forms, with the consent of the Minister, relating to registration and supervision procedures. This included forms in both digital and manual paper formats.

Guidance materials

In preparation for commencement of the DSS on 26 April 2023, the DSS published detailed guidance material on its website. This included:

- detailed guides for each arrangement type
- 'How to' guides both in video and written format to assist people in using the MyDSS portal
- Frequently Asked Questions (FAQs) for members of the public (which are reviewed and updated on a regular basis)
- Separate FAQs for legal practitioners
- Specific FAQs for the Hague Convention

Public information campaign

One of the principal statutory functions of the Decision Support Service is to promote public awareness and confidence in relation to the 2015 Act and the Decision Support Service.

On 26 April 2023, when the Act was commenced and the service was launched, the Mental Health Commission (MHC) commenced a significant public information campaign with the stated aim of ensuring that as many organisations, services, families and individuals as possible were aware of the Act and the DSS and the many meaningful benefits that they would both deliver to society.

Together with an external creative agency, we sat down with the aim of developing an engaging and powerful campaign that would capture public imagination and create name recognition and awareness for the DSS that could be further leveraged into the future. This work involved recruiting nine individuals who would feature across all advertising, and much of the campaign's media and PR activity. These people were all experts by experience in the areas of disability and mental health, and representative of just some of the people who could become future users of the service. We named these people our service 'champions' and we highlighted their personal stories with the aim of helping people emotionally engage with the service and the legislation.

With the support of the champions, we developed a comprehensive campaign that incorporated television, radio, press, online, search and social media advertising elements. We chose our advertising platforms and channels according to our objectives and audiences.

We used the power of television placement to target a broad section of society: national and regional radio for community reach; national and regional press to engage with older communities; an outdoor poster, bus shelter and billboard placement campaign to target people in their communities and on the way to or at work; a social media campaign for personal everyday reach; a paid search engine to support the journey to the website; and a digital audio advert for greater personal listening reach with on-demand radio, music streaming and podcasts.

The video/radio script was developed with the support of the participants and the wider disability community and was spoken aloud and recorded by each of the nine champions. It read as follows:

> *"I have the right to make the decisions that matter to me. Decisions about my money, my property, where I live. Decisions about care and medical treatment. If I need formal supports, the new Decision Support Service can help. And if I want to plan ahead so that my wishes are always known and respected, I can do that too. The Decision Support Service can help me and those close to me to understand the options available. My decisions. My rights."*

The first burst of the campaign – from 26 April to 12 June (search engine and social advertising continued to October 2023) – performed well. The television ads were seen at least once by 2.54 million (68.8%) adults, who saw it on average 9.4 times. The campaign had access to 11 of the 20 top programmes; the radio ads were heard by 3.2 million adults; 3.1m people (combined press readership) had the opportunity to see the DSS advert across the press; and the ads were viewed extensively across social media, including by 1.8m users on Meta (Facebook and Instagram).

All this – as well as search advertising, video on demand, Irish language advertising and outdoor advertising – helped to increase visitors to the website from 4,000 visitors a month on average to 19,000 a month on average. The success of the initial six-week campaign prompted a second burst from November to December 2023, which also performed well in reaching our target audiences.

The MHC would like to express its sincere gratitude to the nine campaign champions – and their families and supports – for agreeing to take part in our DSS public information campaign. The nine champions were Blezzing Dada, Fionn Angus Crombie, Justyna Maslanka, Padraig Schaler, Florin Nolan, Helen Rochford-Brennan, Margaret Turley, Paul Alford and Lydia Fisher.

Stakeholder Engagement

During the period 26 April – 31 December 2023, the DSS met with a range of organisations and provided a number of information sessions about the 2015 Act in-person or online to the following groups:

Table 5 *Stakeholder Engagement*

Insurance Institute of ireland	*Blackrock Clinic*
Society of Trust and Estate Practitioners and Eirn Research Group	*Brothers of Charity (West Region)*
Ireland East Hospital Group	*HSE CHO 8 area*
Law Society of Ireland	*St Patrick's Mental Health Service*
Garda Older Persons Association	*Banking & Payments Federation of Ireland*
Brokers Ireland	*St Vincent's University Hospital*
Walkinstown Association for People with an Intellectual Disability (WALK)	*SOS Kilkenny*
NALA Ireland	*Stanhope St Green Project*
Irish Prison Service	*Dental Hospital, University College Cork*
Inclusion Ireland	*Laura Lynn*
HSE National Complaints Governance & Learning Team	*Nursing Homes Ireland*
HSE CHO 6 area	*Royal Hospital Donnybrook*
Brothers of Charity - Families (Tipperary)	*Alzheimer's National Helpline Team*
Irish League of Credit Unions	*Home Care Coalition*
Avista Services	*Donegal Down Syndrome Association*
Irish College of General Practitioners	*Orthopaedic Hospital of Ireland, Clontarf*
RCSI Hospital Group	*Health Research Consent Declaration Committee*
Tullamore and Portlaoise Hospitals	*National Forensic Mental Health Service*
Garda National Protective Services Bureau	*Mount Merrion Active Retirement Group*
Independent Advocacy Gathering 2023	*Child and Family Agency, Tusla*
HSE CHO 3 area	*Nursing Homes Ireland-Annual Conference and Exhibition*
HSE CHO 2 area	*Trinity College Dublin Adult Safeguarding Programme*
SAOLTA Hospital Group	*Irish League of Credit Unions*
	Disability Federation of Ireland

National Victim Liaison Network
Enable Ireland - Children's Disability Network Team
An Garda Síochána, Older Persons Safety and Security Seminar
Resilience Healthcare
Criminal Injuries Compensation Tribunal
Cumas Day Service
Social work students in Trinity College Dublin
Clann Mór Family Forum
All Ireland Gerontological Nurses' Association
Hospice Friendly Hospitals Programme
Naas Retirement Association
Kingsriver Community Services for Families
Mayo Mental Health Social Workers
Rehab Families (Cork)
St John of God Community Service
Banking and Payments Federation of Ireland
HSE National Safeguarding Day
Alzheimer's Association
Physiotherapists in Primary Care (Dublin, North West)
Rehab Galway (families)
Family Carers Ireland
Intellectual Disability Conference, Mercy University Hospital, Cork
Nursing Homes Ireland Education Day
National Orthopaedic Hospital, Cappagh
Camphill Community Annual Conference
DSS in person stakeholder event to promote advance planning
Revenue
St Hilda's Services, Athlone

Publications:

The Director published articles about the 2015 Act and the role of the DSS in the following:

- Senior Times
- Irish Country Living
- Dementia in Europe
- Irish Pharmacy Union Journal
- Irish Journal of Family law
- Journal.ie
- HSE Human Rights Newsletter
- Irish Examiner
- Irish Times
- Irish Independent
- Meath Chronicle
- Health Matters
- Irish Broker
- Munster Express
- Sligo Weekender

Radio Interviews

The DSS team also participated in radio interviews with the following:

- RTE Radio 1
- Newstalk
- Highland Radio
- Radio Kerry
- Red FM

Regulation of Approved Centres

Regulatory Process

One of the MHC core functions is to regulate and regularly inspect inpatient mental health facilities known as 'approved centres'.

In line with our strategic plan 2023-2027, we endeavour to promote standards, improve quality and safeguard persons in relation to mental health services regulated by the MHC, ensuring a rights-based approach to service provision for service users. Our regulatory process includes a cycle of registration, inspection, compliance, monitoring, and enforcement to ensure high standards and good practices in the delivery of care and treatment to service users. We take a risk-based and intelligence-led approach to our regulatory practices.

We uphold the principles of responsive regulation including being consistent, transparent, targeted, proportionate, and accountable.

We promote capacity-building and self-assessment within services and aim to use our enforcement powers as a last resort following a stepped approach to escalation.

Figure 4: *MHC model of regulation*

Registration

All inpatient facilities that provide care and treatment, as defined in section 62 of the Mental Health Act 2001, to people who have a mental illness or disorder must apply to be registered by the MHC as an approved centre.

Registration as an approved centre lasts for a period of three years, after which the centre must apply to re-register.

As part of a registration application, the MHC considers information about how the facility is governed, the profile of residents, how it is staffed and how the staff are recruited and trained. The application also seeks information about the premises and the types of services that are provided.

The MHC registers and regulates a wide range of inpatient services, including:

- Acute adult mental health care
- Continuing mental health care
- Psychiatry of later life
- Mental health rehabilitation
- Forensic mental health care (NFMHS)
- Mental health care for people with intellectual disability (ID)
- Child and adolescent mental health care (CAMHS)
- Eating disorder treatment care

At the end of 2023, there were 66 approved centres registered with the MHC. During the year there were no new registrations, no approved centre closures, and 34 applications for re-registration were approved.

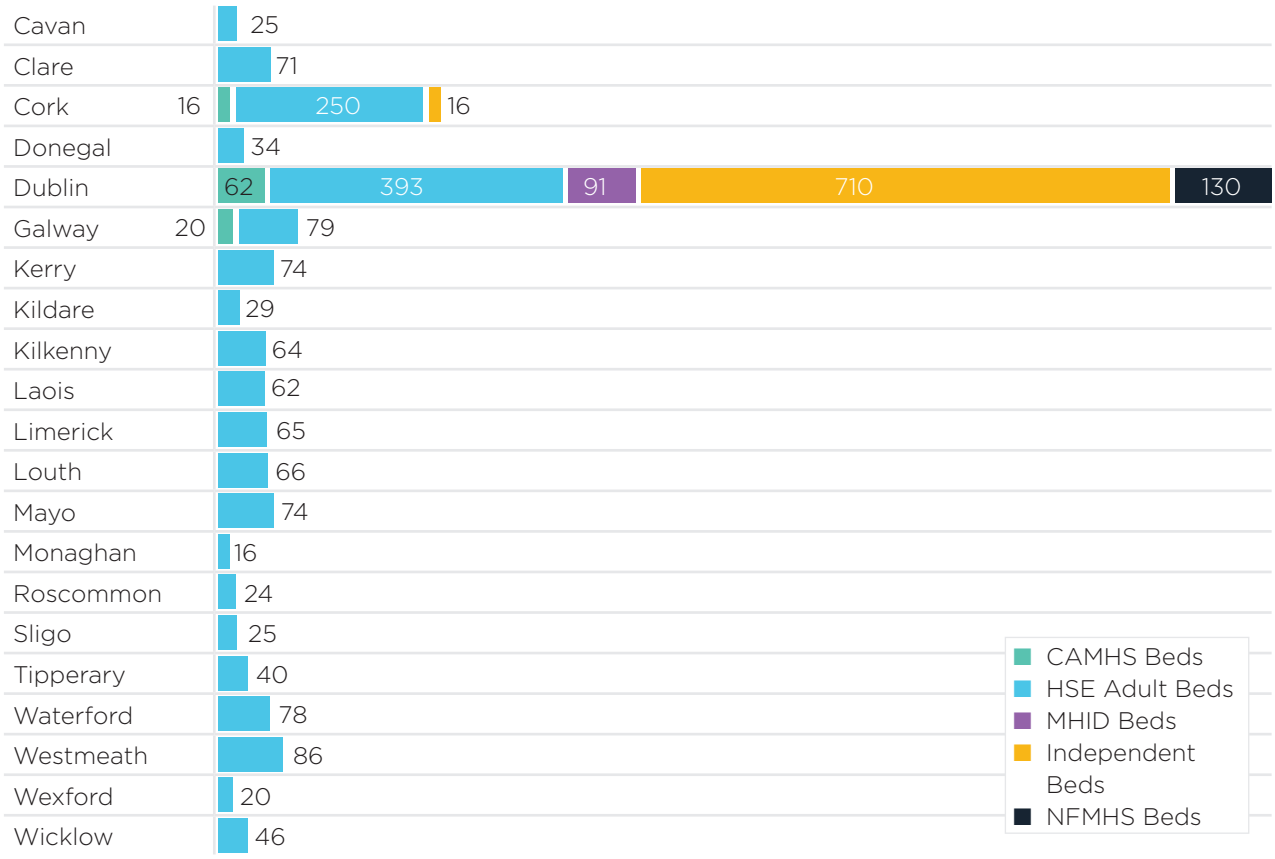
At the end of 2023, there were 2,666 registered inpatient beds in 66 approved centres across the country. During 2023, 6 approved centres notified the MHC of temporary reductions to their operational beds. Approved centres reported that this was necessary due to building and refurbishment works, restriction of admissions and staff shortages.

- There were 98 CAMHS beds nationally, 62 in Dublin, 20 in Galway, and 16 in Cork.
- There were 726 adult beds in the independent sector, of which 710 were in Dublin.
- Of those registered adult inpatient beds, 69% were HSE beds and 31% were independent beds.
- There were also 130 registered forensic beds (NFMHS) and 91 mental health intellectual disability (MHID) beds. These beds were located in Dublin, with a national catchment area.

Table 6: *Registered Beds per Sector and Region 2023*

	Dublin	Cork	Galway	Other Areas	Total
Adult Inpatient Beds	393	250	79	899	1621
CAMHS Beds	62	16	20	0	98
Independent Beds	710	16	0	0	726
NFMHS Beds	130	0	0	0	130
ID Beds	91	0	0	0	91
		Total Beds All Areas			2,666

**Note that registered beds may differ across the year if there is a change to max bed capacity of a centre at re-registration.*



**Note that registered beds may differ across the year if there is a change to max. bed capacity of a centre at re-registration. HSE CHO 9 includes both St Vincent's Hospital, Fairview, and St Aloysius Ward, Mater Misericordiae University Hospital.*

Figure 5: *Registered Beds per County 2023*

Details of all approved centres and their location are available on the MHC website.

Inspection

The Inspector of Mental Health Services visits and inspects every approved centre at least once each year. The Inspector prepares a report on their findings following the inspection. Each approved centre is given an opportunity to review and comment on any content or findings prior to publication.

On inspection, the Inspector rates the compliance against:

- 31 Regulations
- Part 4 of the Mental Health Acts 2001-2018
- Three Statutory Rules
- Four Codes of Practice.

Based on compliance with the relative legislative requirements, the Inspector makes a compliance rating of 'Compliant' or 'Non-Compliant'. Additionally, based on the centre's adherence to the criteria set out in the Judgement Support Framework, the Inspector may make a Quality Assessment of 'Excellent', 'Satisfactory', 'Needs Improvement' or 'Inadequate'.

Following changes made to inspections due to the Covid-19 pandemic, the quality rating was not used for 2023 inspections. However, in 2023, the MHC devised and published the National Quality Framework: Driving Excellence in Mental Health Services (2023) in preparation for a planned full return to reporting on quality measures across approved centres in 2024.

The 'Compliance Monitoring' section discusses compliance findings for 2023 in more detail.

Compliance Monitoring

The MHC collects, monitors and analyses compliance data by individual approved centres, by sector/CHO area, and nationally to identify areas of good practice and areas of concern.

The MHC uses the Judgement Support Framework (JSF) as a key document to guide how compliance is assessed on inspection. The Judgement Support Framework Special Edition, For Use During the COVID-19 Pandemic continued to provide a consistent inspection framework for assessing compliance with regulatory requirements across 2023. The JSF required an assessment of compliance against the strict wording of the regulations.

The MHC inspected all 66 registered approved centres in 2023.

To access copies of individual approved centre inspection reports please go to the MHC website.

Key Compliance Findings

58% **of regulations had over 90% compliance nationally.**

39% **of individual approved centres achieved 90% compliance or over with regulations.**

60% **No approved centre had less than 60% compliance with regulations.**

The data for 2023 show that, while a small number of approved centres continued to achieve 100% compliance, there was a deterioration in overall levels of compliance levels with legal requirements. Overall, the compliance rate with the 31 regulations at 85% represents a decrease on the figure reported in 2022 when it was 88.37%. Privately operated centres continued to achieve higher rates of compliance than centres which were operated by the HSE. The MHC initiated an increased number of enforcement actions in response to findings from inspections.

While five centres achieved 100% compliance with regulations in 2023, approximately 67% of all approved centres achieved an 80% rate of compliance or higher with the regulations in 2023. This proportion was 86% of approved centres in 2022, and 89% of centres in 2021. A total of 22 approved centres had a compliance rate lower than 80% in 2023, and no individual centre had a compliance rate lower than 60%. In comparison, nine approved centres had a compliance rate lower than 80% in 2022, and seven approved centres had a compliance rate lower than 80% in 2021.

There was a marked difference in levels of compliance achieved across the HSE's Community Healthcare Organisations (CHOs). Overall average compliance across all adult centres within a HSE CHO was just under 83% in 2023. CHO 2 (88.41%) had the highest compliance rate with regulations on average across each of its approved centres, and CHO 6 had the lowest average compliance rate (74.71%). The average compliance rate across approved centres operated by independent providers was 90.95%.

In relation to compliance with the three Statutory Rules, and Part 4 of the Mental Health Act 2001, average compliance across all relevant approved centres was 73.65%. In 2023, all relevant centres were reported to be 100% compliant with rules governing the use of Electro-Convulsive Therapy (ECT). In 2022, compliance with the three Statutory Rules and Part 4 of the 2001 Act, did not fall below 83%; in 2021, compliance did not fall below 83%. In 2020, two rules fell below 80% compliance, namely the rules on Electro-Convulsive Therapy (ECT) and Seclusion. Statutory Rules cover the use of ECT, Seclusion and Mechanical Restraint. It should be noted that these rules may not be applicable in some of the approved centres.

Compliance rates with all of the four Codes of Practice averaged 57% in 2023. The Codes relate to the use of Physical Restraint, ECT for Voluntary Patients, Child Admission to an Adult Unit and Admission, Transfer and Discharge to and from an Approved Centre. Again, these Codes of Practice may not be applicable to all approved centres. In line with the compliance rate noted for the rule governing ECT, all relevant centres were also found to be 100% compliant with the codes of practice relating to ECT in 2023.

Areas of Good Practice

In 2023, 21 individual regulations had an approved centre compliance rate of 80% or higher. Ten regulations were fully complied with by all 66 approved centres in 2023, including Health & Safety, Communication, Care of the Dying and Religion. In both 2022 and 2021, 25 regulations had a compliance rate of 80% or higher. In 2023, compliance with the rules on ECT were found to be 100% compliant, and similarly for the Code of Practice on ECT. Similarly, there was a high rate of compliance with Part 4 of the Mental Health Act 2001 which relates to consent to treatment. In 2023 the compliance rate for Part 4 was 97%.

Areas of Concern

A number of regulations were identified as having poor compliance rates. In 2023, regulations with compliance rates below 85% included Ordering, Prescribing, Storing and Administration of Medicines (72.72%) and Privacy (71.21%). The MHC notes this finding with some concern given the potential for poor outcomes for residents if privacy and medication practices are not well managed.

A total of four regulations had compliance rates lower than 60%. These were Risk Management Procedures (56.06%), Individual Care Plans (ICP) (59.09%), Staffing (39.39%) and Premises (27.27%). Compliance with the regulation regarding Premises has been low over the past number of years, with an average compliance rate over the past three years of 29.19%.

The 2022 and 2021 annual reports also identified low levels of compliance with these same four regulations. The data show that there is considerable variance in compliance levels across the HSE regional areas regarding these four regulations. In 2023, the MHC found that the average compliance rate for these four regulations was below 61% across all CHO areas providing adult approved centres, averaging at 38.5% across all CHO areas, as illustrated in the Table below. Of note, in 2023 CHO 6 had the lowest average compliance rates across the four regulations, with an average compliance rate of 16.7%. In comparison, CAMHS had a compliance rate of 75% across these four regulations, followed by CHO 5 which had an average compliance rate of 60.7%. The independent sector compliance rate across these four regulations in 2023 was 62.5%.

A total of four regulations had compliance rates lower than 60%. These were Risk Management Procedures (56.06%), Individual Care Plans (ICP) (59.09%), Staffing (39.39%) and Premises (27.27%). Compliance with the regulation regarding Premises has been low over the past number of years, with an average compliance rate over the past three years of 29.19%.

In relation to Codes of Practice, the compliance rate with the Code of Practice on the Use of Physical Restraint has dropped to 48% in 2023, compared to 82% in 2022, and 73% in 2021.

Approved centre compliance with rules relating to the use of ECT and Part 4 Consent has improved in 2023, reporting 97% compliance with the rule on Consent, and 100% compliance reported against the rule on the use of ECT. In 2022 compliance with the rule on Consent was 74%, and compliance with the rule relating to the use of ECT in 2022 was 88%. However, compliance with the rules relating to seclusion and mechanical restraint have both decreased. Compliance with the rule on seclusion across all applicable centres was 32.14% in 2023, which is a decrease on the 61% compliance reported in 2022 and the 82% compliance reported in 2021. Compliance with the rule on mechanical restraint across all applicable centres was 65.38% in 2023, which is a decrease on the 91% compliance reported in 2022 and the 100% compliance reported in 2021.

While it is a concern that there were decreases in compliance with the rules and code of practice on restrictive practices such as seclusion and physical restraint, it should be noted that in order to increase the protections provided to people who experience seclusion and other restrictive

practices, the MHC published updated rules and codes of practice governing these practices in 2022. The new rules and codes of practice came into effect on 1 January 2023 and, as detailed later in this report, there were substantial positive reductions in the use of these practices in 2023.

A total of nine approved centres were inspected on the Code of Practice relating to the Admission of Children to adult approved centres in 2023, and all nine were found to be non-compliant with it. Reasons for non-compliance included approved centres not providing age-appropriate facilities and a programme of activities appropriate to age and ability. The MHC continues to closely monitor the admission of children and young people under the age of 18 to adult inpatient approved centres.

Table 7: *CHO/Sector compliance with ICP, Premises, Staffing and Risk Regulations*

CHO/ Sector	No. of Approved Centres	ICP	Premises	Staffing	Risk	Lowest	Highest	Average
CHO 1	4	75.0%	25.0%	25.0%	75.0%	25.0%	75.0%	50.0%
CHO 2	8	62.5%	25.0%	37.5%	62.5%	25.0%	62.5%	46.9%
CHO 3	4	50.0%	0.0%	25.0%	25.0%	0.0%	50.0%	25.0%
CHO 4	9	44.4%	11.1%	11.1%	55.6%	11.1%	55.6%	30.6%
CHO 5	7	85.7%	42.9%	85.7%	28.6%	28.6%	85.7%	60.7%
CHO 6	3	66.7%	0.0%	0.0%	0.0%	0.0%	66.7%	16.7%
CHO 7	3	33.3%	0.0%	33.3%	33.3%	0.0%	33.3%	25.0%
CHO 8	6	66.7%	16.7%	33.3%	66.7%	16.7%	66.7%	45.8%
CHO 9	6	33.3%	33.3%	33.3%	83.3%	33.3%	83.3%	45.8%
INDP	8	50.0%	50.0%	75.0%	75.0%	50.0%	75.0%	62.5%
Forensic	1	0.0%	0.0%	0%	0.0%	0.0%	0.0%	0.0%
CAMHS	6	100%	66.7%	50.0%	83.3%	50.0%	100.0%	75.0%
MHID	1	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Critical Risks

In 2023, there were 18 approved centres with instances of non-compliance that received a critical risk rating. This means that there was a high likelihood of continued non-compliance and a high impact on the safety, rights, health or wellbeing of residents.

The critical risks included those related to:

- Code of Practice: Physical Restraint
- Regulation 15: Individual Care Plan
- Regulation 16: Therapeutic Services and Programmes
- Regulation 19: General Health
- Regulation 21: Privacy
- Regulation 22: Premises
- Regulation 26: Staffing
- Regulation 27: Maintenance of Records
- Regulation 32: Risk Management Procedures
- Rules: Mechanical Restraint
- Rules: Seclusion.

The MHC follows up on all areas of concern and critical risks through our enforcement process. Where the Inspector of Mental Health Services makes a finding of non-compliance, this non-compliance is categorised as low, moderate, high or critical. Please refer to the Enforcement section of this report for details of actions taken where critical non-compliances are identified.

Table 8: *Approved Centre Compliance with Regulations*

80+% Compliant
60-80% Compliant
Less than 60% Compliant

Approved Centre	CHO/ Sector	% Compliance
Creagh Suite	HSE CHO 2	100.00%
Grangemore Ward, St Otteran's Hospital	HSE CHO 5	100.00%
Maryborough Centre, St Fintan's Hospital	HSE CHO 8	100.00%
St Patrick's Hospital, Lucan	INDP	100.00%
Willow Grove Adolescent Unit, St Patrick's University Hospital	CAMHS	100.00%
AMHU, Sligo University Hospital	HSE CHO 1	96.67%
Ashlin Centre	HSE CHO 9	96.67%
Carraig Mor Centre	HSE CHO 4	96.67%
Ginesa Suite, St John of God Hospital	CAMHS	96.67%
Linn Dara Child & Adolescent Mental Health Inpatient Unit, Cherry Orchard	CAMHS	96.67%
O'Casey Rooms, Fairview Community Unit	HSE CHO 9	96.55%
St Patrick's University Hospital	INDP	96.55%
Lois Bridges	INDP	96.43%
St Gabriel's Ward, St Canice's Hospital	HSE CHO 5	96.43%
Woodview	HSE CHO 2	96.43%
Adult Acute Mental Health Unit, University Hospital Galway	HSE CHO 2	93.33%
Adult Mental Health Unit, Mayo University Hospital	HSE CHO 2	93.33%
Bloomfield Hospital	INDP	93.33%
Child & Adolescent Mental Health Inpatient Unit, Merlin Park University Hospital	CAMHS	93.33%
Department of Psychiatry, Midland Regional Hospital, Portlaoise	HSE CHO 8	93.33%
Highfield Hospital	INDP	93.10%
Jonathan Swift Clinic	HSE CHO 7	93.10%
St Ita's Ward, St Brigid's Hospital	HSE CHO 8	92.86%
Tearmann Ward, St Camillus' Hospital	HSE CHO 3	92.86%
Centre for Mental Health Care & Recovery, Bantry General Hospital	HSE CHO 4	90.00%
Department of Psychiatry, St Luke's Hospital	HSE CHO 5	90.00%
Deer Lodge	HSE CHO 4	89.66%
St Bridget's Ward & St Marie Goretti's Ward, Cluain Lir Care Centre	HSE CHO 8	89.66%
Teach Aisling	HSE CHO 2	89.66%
Blackwater House	HSE CHO 1	89.29%
Owenacurra Centre	HSE CHO 4	89.29%
Cois Dalua	INDP	86.67%
Lakeview Unit, Naas General Hospital	HSE CHO 7	86.67%
Phoenix Care Centre	HSE CHO 9	86.67%
Acute Psychiatric Unit, Cavan General Hospital	HSE CHO 1	86.21%
Adolescent In-patient Unit, St Vincent's Hospital	CAMHS	86.21%
Aidan's Residential Healthcare Unit	HSE CHO 5	86.21%
National Eating Disorders Recovery Centre	INDP	85.71%
St Aloysius Ward, Mater Misericordiae University Hospital	HSE CHO 9	82.76%
Le Brun House & Whitethorn House, Vergemount Mental Health Facility	HSE CHO 6	82.14%
Acute Psychiatric Unit, Ennis Hospital	HSE CHO 3	80.00%

Approved Centre	CHO/ Sector	% Compliance
An Coillín	HSE CHO 2	80.00%
Department of Psychiatry, University Hospital Waterford	HSE CHO 5	80.00%
Eist Linn Child & Adolescent Inpatient Unit	CAMHS	80.00%
Department of Psychiatry, Roscommon University Hospital	HSE CHO 2	79.31%
Haywood Lodge	HSE CHO 5	79.31%
Selskar House, Farnogue Residential Healthcare Unit	HSE CHO 5	78.57%
St Catherine's Ward, St Finbarr's Hospital	HSE CHO 4	78.57%
Acute Psychiatric Unit 5B, University Hospital Limerick	HSE CHO 3	76.67%
Department of Psychiatry, Letterkenny University Hospital	HSE CHO 1	76.67%
Sliabh Mis Mental Health Admission Unit, University Hospital Kerry	HSE CHO 4	76.67%
St John of God Hospital	INDP	76.67%
Department of Psychiatry, Connolly Hospital	HSE CHO 9	75.86%
St Anne's Unit, Sacred Heart Hospital	HSE CHO 2	75.86%
Avonmore & Glencree Units, Newcastle Hospital	HSE CHO 6	73.33%
Central Mental Hospital, Portrane	NFMHS	73.33%
St Michael's Unit, Mercy University Hospital	HSE CHO 4	73.33%
St Joseph's Intellectual Disability Service	MHIDS	72.41%
St Vincent's Hospital	HSE CHO 9	72.41%
Cappahard Lodge	HSE CHO 3	71.43%
Admission Unit & St Edna's Unit, St Loman's Hospital	HSE CHO 8	70.00%
Units 2, 3, 4, and Unit 8 (Floor 2), St Stephen's Hospital	HSE CHO 4	70.00%
Elm Mount Unit, St Vincent's University Hospital	HSE CHO 6	68.97%
Acute Psychiatric Unit, Tallaght Hospital	HSE CHO 7	66.67%
Drogheda Department of Psychiatry	HSE CHO 8	63.33%
Acute Mental Health Unit, Cork University Hospital	HSE CHO 4	60.00%

Table 9: *CHO/Sector Compliance with Regulations in 2023*

CHO/Sector	No of Approved Centres	Average Compliance	Lowest Rate	Highest Rate
CHO 1	4	87.18%	76.67%	96.67%
CHO 2	8	88.41%	75.86%	100%
CHO 3	4	80.17%	71.43%	92.86%
CHO 4	9	80.38%	60%	96.67%
CHO 5	7	87.19%	78.57%	100%
CHO 6	3	74.71%	68.97%	82.14%
CHO 7	3	82.02%	66.67%	93.10%
CHO 8	6	84.66%	63.33%	100%
CHO 9	6	85.23%	72.41%	96.67%
MHID	1	72.41%	72.41%	72.41%
IND	8	90.95%	76.67%	100%
NFMHS	1	73.33%	73.33%	73.33%
CAMHS	6	92.18%	80.00%	100%

Table 10: *Compliance by Regulation in 2023*

Regulation	Proportion of approved centres compliant
Reg 33: Insurance	100%
Reg 20: Information	100%
Reg 04: Identification	100%
Reg 10: Religion	100%
Reg 24: Health and Safety	100%
Reg 12: Communication	100%
Reg 34: Certificate	100%
Reg 14: Care of the Dying	100%
Reg 30: Tribunals	100%
Reg 17: Children's Education	100%
Reg 09: Recreation	98%
Reg 05: Food and Nutrition	95%
Reg 31: Complaints	94%
Reg 29: Policies	92%
Reg 18: Transfers	92%
Reg 06: Food Safety	92%
Reg 08: Residents' Property	89%
Reg 28: Register	89%
Reg 13: Searches	86%
Reg 16: Therapeutic Services	79%
Reg 27: Records	77%
Reg 25: CCTV	76%
Reg 23: Medication	73%
Reg 19: General Health	73%
Reg 21: Privacy	71%
Reg 15: Individual Care Plan	59%
Reg 32: Risk	56%
Reg 26: Staffing	39%
Reg 22: Premises	27%

Table 11: *Compliance with Statutory Rules and Part 4 of the Mental Health Act 2001 in 2023*

Rule	% Compliance
Rules: ECT	100.00%
Part 4: Consent	97.06%
Rules: Mechanical Restraint	65.38%
Rules: Seclusion	32.14%

Table 12: *Compliance with Code of Practice in 2023*

Code of Practice	% Compliance
COP: ECT	100.00%
COP: Admission, Transfer, Discharge	80.30%
COP: Physical Restraint	48.00%
COP: Children*	0.00%

** Nine approved centres were inspected in relation to adult centres which admit children, and all nine found to be non-compliant with the code of practice. Please refer to the Areas of Concern section above for more information.*

Enforcement

Enforcement action is taken when the MHC is concerned that the care and treatment provided in an approved centre may be a risk to the safety, health and wellbeing of residents, or where there has been a failure by the provider to address an ongoing area of non-compliance.

All critical risk issues are considered by the MHC's Regulatory Management Team. Enforcement actions commonly arise from inspection findings, quality and safety notifications, and compliance monitoring.

Enforcement actions available to the MHC are set out in **Figure 6**. Enforcement actions range from requiring a corrective and preventative action plan (at the lower end of enforcement) to removing an approved centre from the register and/or pursuing prosecution.

Enforcement actions

The MHC took 52 enforcement actions in response to incidents, events and serious concerns arising in 2023. These actions related to 29 approved centres, and the maximum enforcement actions initiated against any one approved centre was five.

This compares with:-

- 45 enforcement actions in 2022
- 42 enforcement actions in 2021
- 17 enforcement actions in 2020
- 40 enforcement actions in 2019
- 44 enforcement actions in 2018.

During 2023, enforcement actions included:-

- 29 Immediate Action Notices, relating to 39 regulations risk rated as critical
- 20 Regulatory Compliance Meetings
- One proposal to attach a condition to the approved centre's registration arising from an enforcement process
- Two formal warning letters and requests for further information.

In addition, the MHC requested 61 Corrective and Preventive Action plans on foot of the findings during the inspection cycle.

Approximately 57% of the 2023 Immediate Action Notices and Regulatory Compliance Meetings arose from regulatory inspections conducted by the Inspectorate division. However, many were initiated on foot of notifications to the MHC.

Enforcement actions related to core areas of service provision that impacted the safety, wellbeing or human rights of residents.

They included:-

- Maintenance of premises at the approved centre
- Risk management procedures at the approved centre
- Appropriate staffing at the approved centre
- The provision of therapeutic services and programmes
- Other service provision areas.

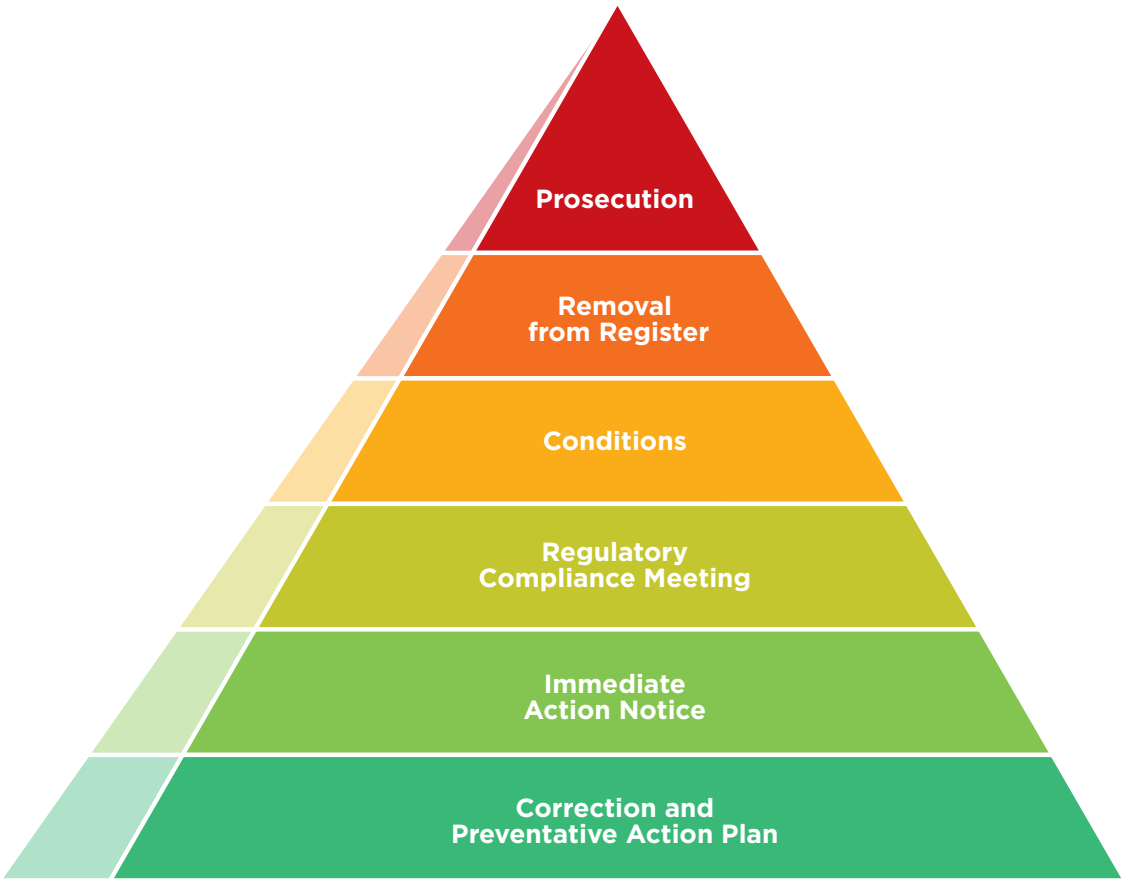


Figure 6: *MHC Enforcement Model*

Registration Conditions

The MHC may attach conditions to an approved centre's registration from time to time. The most common reason to attach conditions to the registration of an approved centre is continued non-compliance with regulations.

The MHC uses conditions to closely monitor and ensure action is taken in respect of areas of concern. It is an offence to breach a condition of registration.

Conditions Attached

In 2023, 25 **new** conditions were attached to the registration of 13 approved centres, relating to staff training, premises, compliance, safeguarding and quality improvement. This compares to 14 new conditions attached to 12 approved centres in 2022, and 3 new conditions attached to 3 approved centres in 2021.

At the end of 2023, there were 39 conditions attached to 25 approved centres in total, compared to 84 conditions attached to 37 approved centres in 2022, and 85 conditions attached to 39 approved centres in 2021. The reduction in the number of conditions in 2023 can be linked to the registration cycle, such that a large number of approved centres applied for re-registration in 2023. A number of these approved centres successfully registered without conditions, having previously had conditions applied to their registration. The most common conditions attached are presented in **Table 13**.

- 34 centres applied for re-registration in 2023, compared to 20 in 2022, and 10 in 2021.
- Conditions remain in place for the duration of the three-year registration cycle, where issues of poor compliance have not been fully addressed.

Most conditions require that monthly or quarterly reports be submitted to the MHC, which allows for regular monitoring. In 2023, 79 condition-monitoring reports were submitted, compared to 428 condition-monitoring reports submitted in 2022 and 461 in 2021. The number of conditions reduced in 2023 as 34 approved centres applied for and were granted new registration periods. Not all new registration periods had conditions attached to them and therefore the number of conditions attached to approved centres was reduced.

Table 13: *Registration Conditions in force in 2023*

Condition Area	Number of Conditions Attached
Premises	20
Staff training	4
Other areas	15

Quality and Safety Notifications

Approved centres and other community mental health services are required to record and submit Quality and Safety Notifications to the MHC via the CIS system. There are 18 Quality and Safety Notification categories, which relate to incidents and adverse events and regulated practices, including:-

- Child Admissions
- Deaths
- Incident Reporting
- Serious Reportable Events
- Overcapacity
- Operational Bed Capacity
- Electro-Convulsive Therapy
- Restrictive Practices

All notifications received are reviewed by the Standards and Quality Assurance (S&QA) division of the MHC, to ensure quality, safety of care, dignity and human rights practices are adhered to in the provision of mental health services in approved centres, and in other community mental health services as defined by the MHC pursuant to the 2001 Act.

The MHC S&QA division closely monitors and reviews these notifications and may request further information from a service in relation to a notification, to ensure that specific actions have been taken to safeguard the wider resident group or that relevant learnings have been incorporated into service practice.

The MHC also analyses notifications for trends and uses these data to inform its regulatory practices. The MHC also produces annual activity reports on some regulated practices, which can be found on the MHC's website.

Adverse Events

Deaths

In 2023, 529 deaths of people using mental health services were reported to the MHC. Of these, 149 deaths (28%) related to approved centres and 380 (72%) related to other community mental health services.

This compares to:

- 498 deaths in 2022, 147 were residents in approved centres and 351 related to other community mental health services.
- 471 deaths in 2021, 174 were residents in approved centres and 297 related to other community mental health services.
- 586 deaths in 2020, 207 were residents in approved centres and 379 related to other community mental health services.

A total of 329 (62%) deaths reported in 2023 related to males. The average age of at death was 60 years. The youngest was 16 years of age, and the oldest was 99 years.

Death by suicide may only be determined by a Coroner's inquest, which may take place several months after the death. However, in 2023, 178 total deaths were reported to the MHC by services as a 'suspected suicide' and 35 of these related to residents of approved centres. This compares to 144 in 2022, where 26 related to residents of approved centres.

It should be noted that deaths notified to the MHC include those that are reported within four weeks of a resident's discharge. A breakdown of the deaths reported to the MHC is provided in **Table 14**.

> In 2023, 529 deaths of people using mental health services were reported to the MHC. Of these, 149 deaths (28%) related to approved centres and 380 (72%) related to other community mental health services.

Table 14: *Breakdown of deaths notified to the MHC*

Type of Death*	Approved Centres	Other Mental Health Services	Total
Death was Sudden	56	243	299
Death was Not Sudden	93	137	230
Death was Suspected Suicide	35	143	178
Cause of Death Unknown	44	181	225

** A resident death may be reported under more than one Type of Death category*

Serious reportable events

All approved centres are required to notify the MHC of Serious Reportable Events that occur in their service (Serious Reportable Events (SREs), HSE 2015).

- In 2023, 94 SREs were reported to the MHC involving 30 approved centres
- In 2022, 51 SREs were reported involving 23 approved centres
- In 2021, 42 SREs were reported involving 23 approved centres
- In 2020, 36 SREs were reported involving 19 approved centres.

Table 15 shows the number of reported SREs by category in 2023, broken down by SRE category as reportable to the MHC. The highest reported SRE category was Criminal Events 6C (44.68%), followed by Environmental Events 5D (25.53%), and Patient Protection Events 3C (11.7%). In relation to the Criminal Events 6C (Sexual Assault) category, there was a marked increase in the number of approved centre incidents in 2023 (42) compared to 2022 (12). The MHC engaged with each approved centre that reported a category 6C Criminal Event to ensure the safety of each resident and to require assurances regarding the wider safeguarding arrangements in place. It should be noted that during 2022 and 2023 the MHC issued communications to approved centres requesting that they review and update their arrangements for identifying, recording and responding to safeguarding and sexual assault allegations.

Table 15: *Serious Reportable Events reported in 2023 by Category*

SRE Category	Description	Number Reported	%
Criminal Events (6C)	Sexual assault	42	44.68%
Environmental Events (5D)	Serious disability associated with a fall	24	25.53%
Patient Protection Events (3C)	Sudden or unexplained deaths or injuries which result in serious disability of a person who is an inpatient/resident	11	11.70%
Other	Other event	9	9.57%
Care Management Events (4I)	Stage 3 or 4 pressure ulcers	6	6.38%
Criminal Events (6D)	Serious injury/disability resulting from a physical assault	2	2.13%
Patient Protection Events (3B)	Serious disability associated with a patient absconding from a healthcare service	0	0.00%
Total		**94**	

Table 16 provides a breakdown of SRE by CHO and Sector. CHO 4 (21%) reported the highest number of SREs in 2023. The CAMHS sector, CHO 1 and CHO 9 reported the lowest proportion of SREs in 2023 at only 1% each or one event each. It should be noted that some approved centres may be more likely to report a specific type of SRE based on the profile of residents that they support, for example, falls and pressure ulcers are associated with older adults in care.

Fifty eight percent of SREs reported by approved centres related to female residents. The average age of a resident who was the subject of an SRE was 51 years of age. The youngest resident was 15 years old and the oldest was 92 years.

Regulated Practices

The MHC produces annual activity reports on the use of ECT and restrictive practices, the latter of which includes seclusion, physical restraint and mechanical restraint. We have provided a high-level overview of the information which will be presented in greater detail when these reports are published later in 2024. The data presented are therefore provisional. The final figures for 2023 and additional information will be included within the activity reports.

Table 16: *Serious Reportable Events reported by CHO*

SRE Category	CAMHS	HSE CHO 1	HSE CHO 2	HSE CHO 3	HSE CHO 4	HSE CHO 5	HSE CHO 6	HSE CHO 7	HSE CHO 8	HSE CHO 9	INDP
Care Management Events (4I)				2		1		1			2
Criminal Events (6C)	1		4	3	5	3	8	7	7		4
Criminal Events (6D)						1		1			
Environmental Events (5D)		1	3	2	3	11			1		3
Other				2	5			2			
Patient Protection Events (3C)					7	2				1	1
Sector Proportional Total	**1%**	**1%**	**7%**	**10%**	**21%**	**19%**	**9%**	**12%**	**9%**	**1%**	**11%**

Electro-Convulsive Therapy (ECT)

Electro-Convulsive Therapy (ECT) is a medical procedure in which an electric current is passed briefly through the brain via electrodes applied to the scalp to induce generalised seizure activity. The person receiving treatment is placed under general anaesthetic and muscle relaxants are given to prevent body spasms. Its purpose is to treat specific types of major mental illnesses.

The use of ECT in Ireland is regulated by the 2001 Act and approved centres must notify the MHC of all programmes of ECT.

- In 2023 there were 307 programmes of ECT notified for 213 individuals in 16 approved centres
- In 2022 there were 263 programmes of ECT notified for 206 individuals
- In 2021 there were 333 programmes of ECT notified for 229 individuals
- In 2020 there were 300 programmes of ECT notified for 239 individuals.

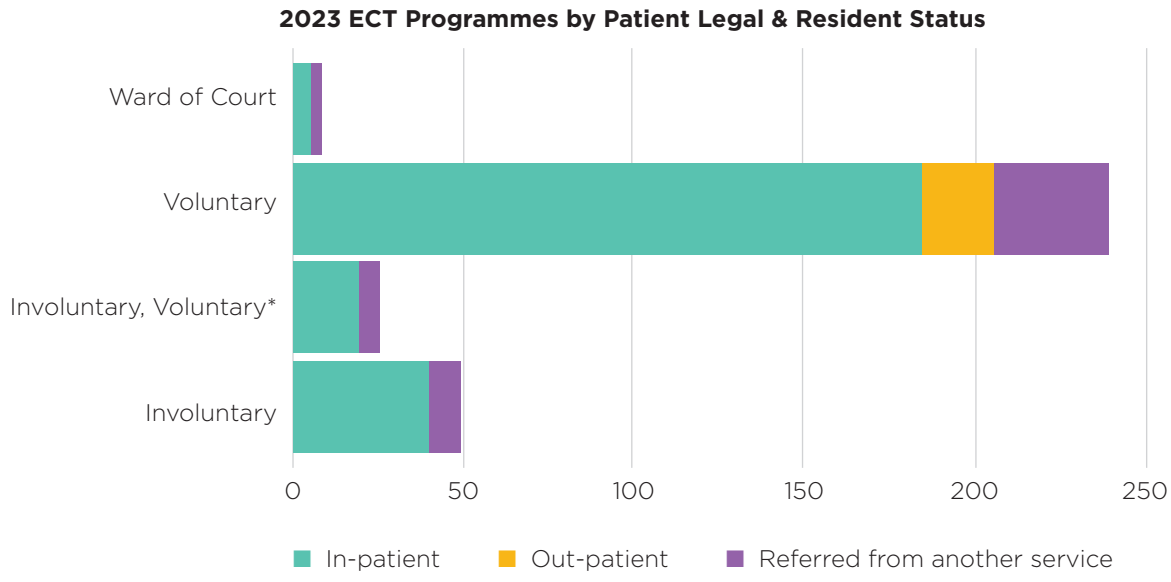
Of the individuals who were administered ECT in 2023, 76.87% were voluntary patients attending an approved centre at the time of commencement of the ECT programme, compared to 80.90% in 2022, 82% in 2021, and 78% in 2020.

In 2023, 49.19% of individuals underwent a single programme of ECT, while 50.81% of individuals received between two and six ECT programmes. In 2023, 68.4% of ECT recipients were female, compared to 62.6% in 2022, 60% in 2021, and 66% in 2020. The average age of a patient undergoing ECT in 2023 was 63.5 years; in 2022 the average age was 64; in 2021 it was also 64; and in 2020 it was 62 years. The youngest ECT recipient in 2023 was 21 years of age and the oldest recipient was 95 years at the outset of treatment.

A single ECT programme may involve up to 12 individual treatments. Eighty-two (82) programmes (27%) of ECT involved the full 12 treatments in 2023, with an average of 11.76 treatments per recipient. There were a total of 2,507 individual ECT treatments in 2023, compared to 2,109 in 2022, 2,282 in 2021, and 2,329 in 2020.

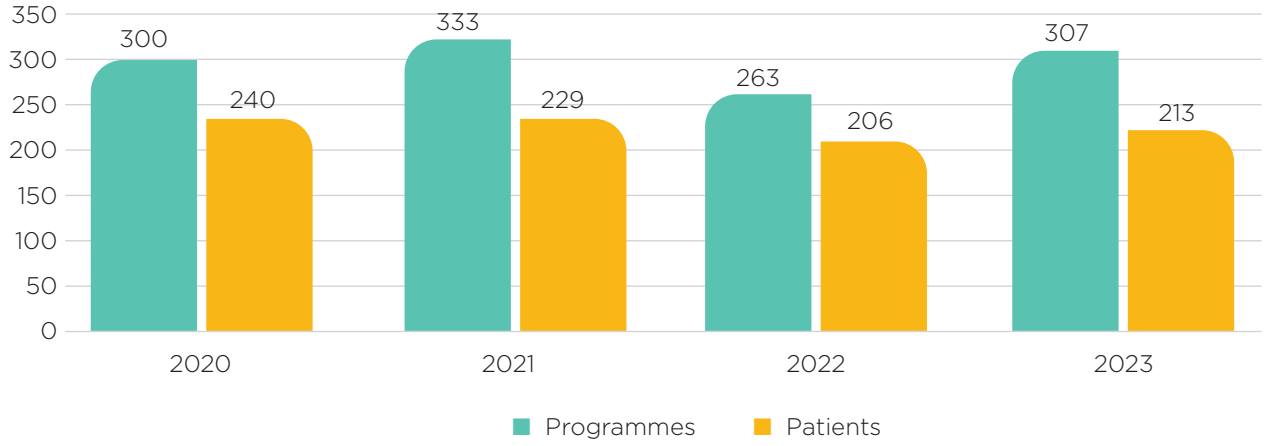
In 2023, 2,090 ECT treatments (83.4%) took place with the recipient's consent, compared to 1,767 (83.8%) in 2022, 1,983 (86.9%) in 2021, and 1,863 treatments (81%) in 2020. Sixty programmes of ECT (20%) in 2023 included at least one treatment without consent, both a numerical and proportional increase on the figure of 44 (16.7%) notified in 2022, and 48 (14%) notified in 2021.

Figure 7: *2023 ECT Programmes by Patient Status*



**An individual's legal status may change during a programme of ECT.*

Figure 8: *ECT Programmes per year 2020 – 2023*



Seclusion

Seclusion refers to the placing or leaving of a person in any room, at any time, day or night, such that the person is prevented from leaving the room by any means.

There were 896 episodes of seclusion reported as having been initiated in 2023, involving 475 residents in 27 approved centres. In terms of numbers of episodes, this represents a 25% decrease on the previous year. The shortest episode reported lasted 5 minutes, while the longest episode lasted 3,797 hours or 158 days. This long-running seclusion, which was specific to the NFMHS started in June 2023 and ended in November 2023. Approved centres are required to notify the Inspector of Mental Health Services if a resident is secluded for a period exceeding 72 hours. The MHC received 72 notifications from 11 approved centres of episodes of seclusion that lasted longer than 72 hours in 2023.

In comparison, noted within the 2022 MHC Annual Report there were 1,202 episodes of seclusion involving 579 residents in 26 approved centres, and reported within the 2021 Annual Report there were 1,884 episodes of seclusion involving 654 residents in 27 approved centres.

CHO 9 accounted for 19.87% of seclusion episodes notified in 2023, followed by CHO 7, which accounted for 14.84%, and the CAMHS sector which accounted for 11.61%. The MHID reported the lowest number of seclusion episodes in 2023, accounting for 0.11% of 2023 reported episodes.

In 2023, 61.5% of residents who were secluded were male. The average age of secluded residents was 33 years. The youngest secluded resident was 13 years old and the oldest was 85 years. The majority of residents (35.83%) were secluded only once. The average number of episodes per secluded resident was two, but the median number of episodes per resident is one.

In order to increase the protections provided to people who experience seclusion and other restrictive practices, the MHC published updated rules and codes of practice governing these practices in 2022. The new rules and codes of practice came into effect on 1 January 2023.

Physical Restraint

Physical restraint refers to the use of physical force for the purpose of preventing the free movement of a resident's body.

In 2023 there was an approximate decrease of 9% in the number of reported episodes of physical restraint. There were 2,570 episodes of physical restraint involving 884 residents in 53 approved centres notified to the MHC in 2023. This compares to 2,830 episodes of physical restraint involving 1,027 residents in 47 approved centres in 2022, 3,460 episodes of physical restraint involving 1,169 residents in 47 approved centres in

The CAMHS sector reported the highest number of physical restraints, accounting for 19.77% of all reported episodes in 2023. CHO 7 accounted for 14.82% of physical restraint episodes in 2023, followed by CHO 9 at 12.49%, and CHO 2 at 10.86%.

2021, and 3,990 episodes involving 1,211 residents in 48 approved centres in 2020. The average episode of physical restraint in 2023 lasted for 4.4 minutes. The shortest episode of physical restraint lasted for less than one minute, while the longest was 30 minutes.

Renewal orders are required for episodes of physical restraint that last longer than 10 minutes.

The CAMHS sector reported the highest number of physical restraints, accounting for 19.77% of all reported episodes in 2023. CHO 7 accounted for 14.82% of physical restraint episodes in 2023, followed by CHO 9 at 12.49%, and CHO 2 at 10.86%. The highest number of physical restraint episodes reported by a single approved centre was the Linn Dara Child & Adolescent Mental Health Inpatient Unit (267), which accounted for approximately 10.39% of all episodes.

Of those residents physically restrained in 2023 42% were male. The average age of residents who were physically restrained was 35. The youngest resident who was physically restrained was 12 years old, and the oldest was 91 years of age. The average number of episodes per physically restrained resident was three.

Mechanical Restraint (Part 3):-

Use of Mechanical Means of Bodily Restraint for Immediate Threat of Serious Harm to Self or Others

Mechanical restraint refers to the use of devices or bodily garments for the purpose of preventing or limiting the free movement of a person's body when they pose an immediate threat of serious harm to themselves or others.

In 2023, there were 11 episodes notified of mechanical restraint involving six residents under Part 3 of Rules Governing the Use of Mechanical Means of Bodily Restraint for Immediate Threat of Serious Harm to Self or Others. Ten episodes of mechanical restraint were reported by the Central Mental Hospital, with one episode of mechanical restraint notified by Cois Dalua. The total duration of mechanical restraint under Part 3 in 2023 was 17 hours and 46 minutes. The average episode of mechanical restraint lasted for just under two hours. The shortest episode lasted 4 minutes, and the longest episode was 5 hours and 40 minutes.

In 2022, 26 episodes of mechanical restraint involving 13 residents were reported to the MHC.

Mechanical Restraint (Part 4):-

Use of Mechanical Means of Bodily Restraint for enduring risk of harm to self or others.

The use of mechanical means of bodily restraint on an ongoing basis for enduring risk of harm to self or others may be appropriate in certain clinical situations but must be used only to address an identified clinical need and/or risk.

A total of 36 approved centres reported the use of mechanical restraint for the purposes of clinical need as having occurred up to the end of 2023. These notifications reported the use of Buxton chairs for the safety of 2 residents, the use of lap belts for 108 residents, and the use of bed rails for the safety of 13 residents. In addition, in 2023, 13 residents were restrained by other means such as gait belts or mittens.

Areas that the MHC closely monitors

Overcapacity

An approved centre is at overcapacity if the number of residents accommodated in the unit at 12am on that day exceeds the number of beds the approved centre is registered for. In 2023, there were 46 instances of overcapacity reported by approved centres. There were 33 reported instances of overcapacity in 2022, 64 in 2021, and 58 in 2020.

Overcapacity in 2023 related to the following nine approved centres:

- Acute Psychiatric Unit 5B, University Hospital Limerick
- Acute Psychiatric Unit, Ennis Hospital
- Adult Mental Health Unit, Mayo University Hospital
- Adult Acute Mental Health Unit, University Hospital Galway
- Lakeview Unit, Naas General Hospital
- Acute Mental Health Unit, Sligo University Hospital
- Department of Psychiatry, Roscommon University Hospital
- Department of Psychiatry, University Hospital Waterford
- Sliabh Mis Mental Health Admission Unit, University Hospital Kerry.

Both Acute Psychiatric Unit 5B, University Hospital Limerick and Acute Psychiatric Unit, Ennis Hospital reported 17 (36.96%) instances of overcapacity in 2023. This means that just under 74% of all reported instances of overcapacity in 2023 were reported by HSE CHO 3. The Adult Mental Health Unit, Mayo University Hospital reported four instances (8.7%) of overcapacity in 2023; both the Lakeview Unit, Naas General Hospital and the Adult Acute Mental Health Unit, University Hospital Galway each reported two (4.35%) instances of overcapacity; while the Acute Mental Health Unit at Sligo University Hospital, the Department of Psychiatry at Roscommon University Hospital, the Department of Psychiatry at University Hospital Waterford and the Sliabh Mis Mental Health Admission Unit at University Hospital Kerry all reported just one instance each of overcapacity in 2023, each representing 2.17% of overall overcapacity notifications in the year.

The MHC requires additional information and assurances from all centres reporting overcapacity to ensure patient safety and dignity, request evidence of surge management plans and require that they address the systemic causes of overcapacity.

Most instances of overcapacity notified in 2023 were reported to have occurred due to emergency involuntary admissions.

Figure 9: *Overcapacity reported per annum 2019-2023*

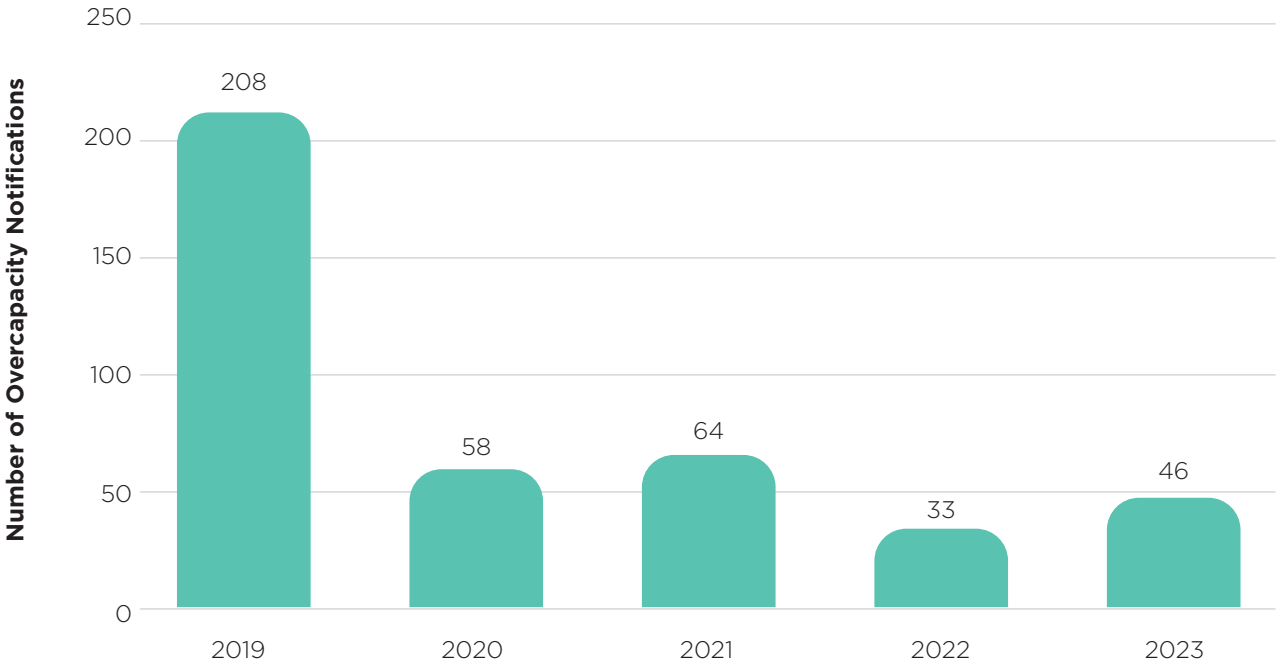
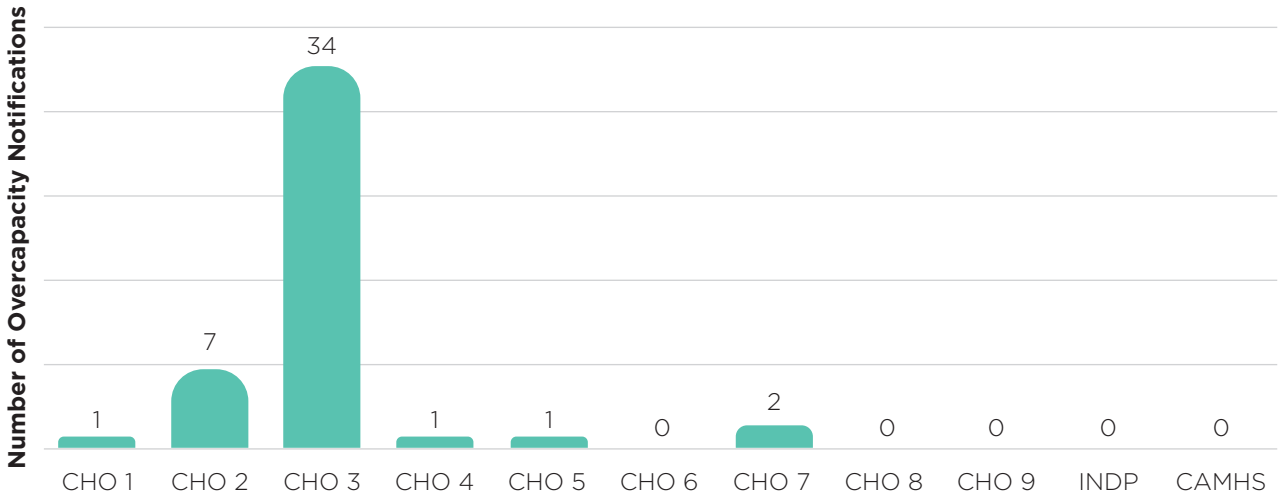


Figure 10: *Overcapacity reported in 2023 by Sector*



Child Admissions

The MHC closely monitors the admission of children and young people under the age of 18 to inpatient mental health approved centres.

The total number of all admissions of young people to approved centres in 2023 was 323. This compares with a total of 366 admissions in 2022, 504 admissions in 2021, 486 admissions in 2020, and 497 in 2019.

Admissions to adult approved centres

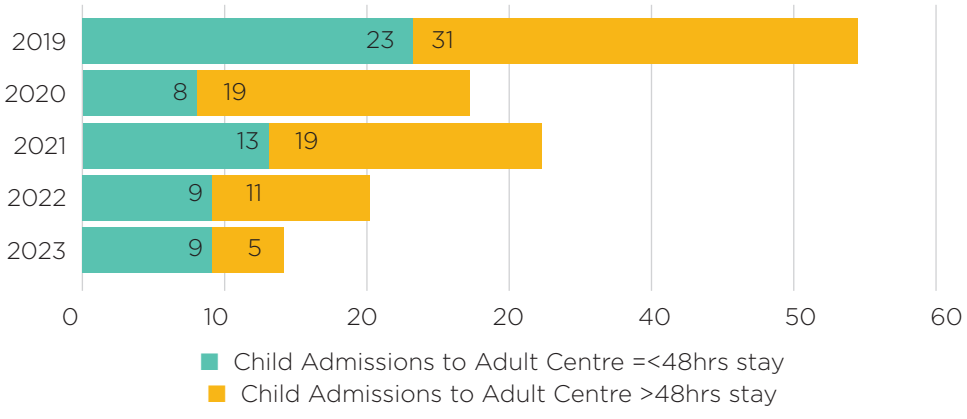
The frequency and duration of the admission of children to adult approved centres continued to decrease in 2023. Children and young people should not be admitted to adult units except in exceptional circumstances. The most common reasons for admissions to adult units are:-

- Immediate risk to the young person or others
- Lack of a bed in a specialist CAMHS unit.

Residential CAMHS units are located only in three counties nationally. Due to the unavailability of CAMHS beds, children and young people in crisis may be left with the unacceptable 'choice' between an emergency department, general hospital, children's hospital, or an adult inpatient unit.

In 2023, there was a further decrease in the number of children admitted to adult units, when compared with the previous two years. There were 14 admissions to 11 adult units in 2023. This compares with 20 admissions to 11 adult units in 2022. Nine of those admissions of children to adult units in 2023 were for less than 48 hours.

Figure 11: *Duration of Stay – Child Admissions to Adult Units*



Children admitted to adult approved centres were reported to have been admitted because of immediate risk to themselves or others, or due to no availability of a bed within a CAMHS facility.

In 2023, 4.3% of all child admissions were to adult units. This figure is lower than in 2022, when 5.2% of child admissions were to adult units, and 2021 when 6.3% of child admissions were to adult units. **Figure 12** presents child admissions to adult and CAMHS approved centres over the past seven years.

Figure 12: *Child Admissions to Adult and CAMHS approved centres for the past seven years*

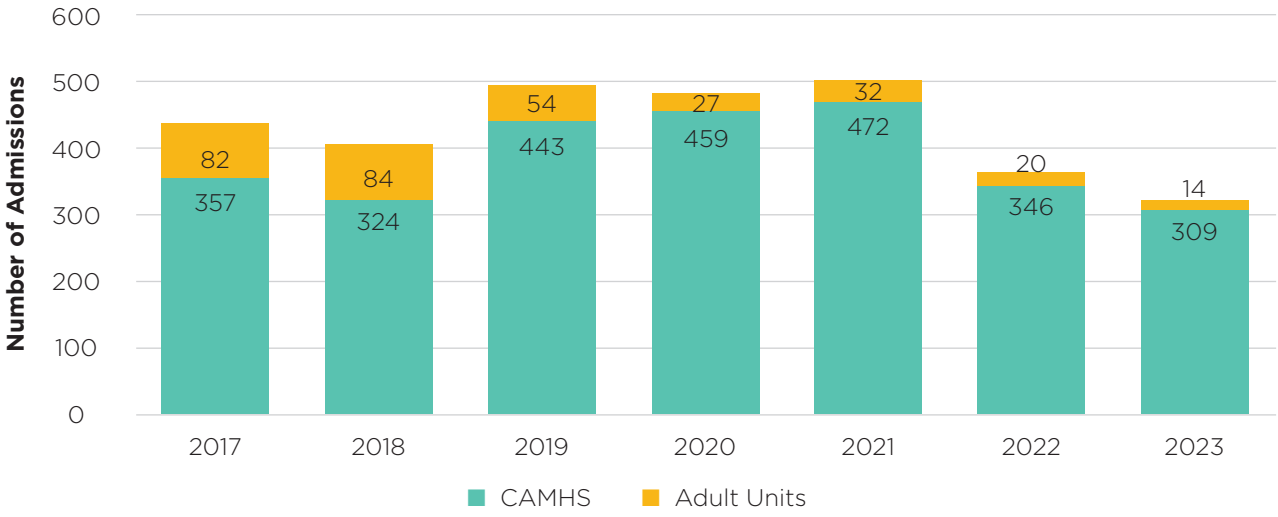


Table 17: *Child Admissions to Adult Units 2023*

Rank	CHO/Sector	Approved Centre	No. Admissions
1	HSE CHO 5	Department of Psychiatry, St Luke's Hospital	3
2	INDP	St John of God Hospital	2
3	HSE CHO 1	Acute Psychiatric Unit, Cavan General Hospital	1
3	HSE CHO 4	Sliabh Mis Mental Health Admission Unit, University Hospital Kerry	1
3	HSE CHO 6	Elm Mount Unit, St Vincent's University Hospital	1
3	HSE CHO 9	St Aloysius Ward, Mater Misericordiae University Hospital	1
3	HSE CHO 4	Centre for Mental Health Care & Recovery, Bantry General Hospital	1
3	HSE CHO 7	Acute Psychiatric Unit, Tallaght Hospital	1
3	HSE CHO 4	Units 2. 3, 4, and 8 (Floor 2), St Stephen's Hospital	1
3	HSE CHO 1	Department of Psychiatry, Letterkenny University Hospital	1
3	HSE CHO 5	Department of Psychiatry, University Hospital Waterford	1
		Total	**14**

Admissions to child and adolescent approved centres

There are six specialist CAMHS units nationally; four are in Dublin, one in Cork and one in Galway. Of the four CAMHS units in Dublin, two are private. In 2023, there were 309 admissions to CAMHS units nationally. The average duration of admission was 40 days, based on discharge information provided for 267 admissions. The shortest admission duration was less than 1 day, and the longest admission duration was 244 days. These data include admissions that were discharged after 31 December 2023.

Involuntary child admissions

The District Court is required to authorise the involuntary admission of a child. In 2023, there were seven involuntary admissions orders of children to approved centres, pursuant to section 25 of the 2001 Act. This included:-

- One order to an adult unit
- Six orders to CAMHS units

In addition, there were:-

- Three Admissions of a Ward of Court to a CAMHS unit
- No Admissions of a Ward of Court to an adult unit

Age and gender of child admissions

In 2023, 73.5% of child admissions to CAMHS units were female. In comparison, 35.7% of child admissions to adult approved centres were female. In 2023, 72% of all child admissions related to female residents. The average age of a service user in 2023 was 15.5 years. The youngest resident was 11 years of age. A breakdown of admission by age is presented in **Table 18**. Eighty-four percent of children admitted to CAMHS and adult units in 2023 were admitted only once, with 14% of residents admitted twice and 2% admitted three times in that period.

Table 18: *Admissions to Adult and CAMHS approved centres by age in 2023*

Age	Adult	CAMHS
17	9	98
16	2	76
15	1	56
14	0	51
13	2	21
12	0	6
11	0	1
10	0	0

Quality Improvement

Quality Improvement

The MHC has a mandate to foster high standards and good practice in the delivery of mental health care. We encourage the delivery of recovery-based, person-centred services which promote and uphold the human rights of those receiving care and treatment.

We contribute to a culture of continuous quality improvement by conducting analysis, issuing guidance, and developing evidenced-based standards, rules, and codes of practice to improve service delivery and the experience of those accessing services.

We also utilise quality improvement methodologies in the review of our own internal processes.

During 2023, our key activities under our quality improvement functions included:

- the publication of the *National Quality Framework: Driving Excellence in Mental Health Services*
- the ongoing development of standards for community mental health services
- the joint MHC and World Health Organization launch of the '*QualityRights Initiative*' training module which was designed to support people to understand a human rights model of mental health care.

The MHC is also currently revising the 'Headspace Toolkit' which will be published and launched later in 2024.

The MHC is also currently revising the 'Headspace Toolkit' (see following page) which will be published and launched later in 2024.

Publications

The MHC published several documents throughout 2023:

- Interim Report arising from an Independent Review of the Provision of Child and Adolescent Mental Health Services (CAMHS) in the State – Report by the Inspector of Mental Health Services
- The National Quality Framework: Driving Excellence in Mental Health Services
- Independent Review of the Provision of Child and Adolescent Mental Health Services (CAMHS) in the State - Final Report by the Inspector of Mental Health Services
- The Use of Restrictive Practices in Approved Centres: Activity Report 2022
- The Administration of Electro-Convulsive Therapy in Approved Centres: Activity Report 2022.

Community Standards

In 2023, the MHC's regulatory remit encompassed 66 approved centres providing inpatient treatment to persons with a mental illness. However, under a proposed Heads of Bill to amend the Mental Health Act 2001, that remit is expected to significantly expand to include the regulation of community mental health services. In advance of the expansion, a new team was recruited under the Standards and Quality Assurance umbrella to drive the development of standards for community residential mental health services.

In 2023, much work was done to progress this crucial initiative:-

- A high-level review of international best practice for community residential mental health care was progressed. The review sought to analyse standards and guidance from relevant regulators, public bodies, and professional bodies in seven comparable jurisdictions including Ireland, England, Wales, Scotland, Canada (Ontario), and Australia.
- A survey was disseminated to community residences throughout the country to gather crucial data informing the development of the standards. In total, 138 responses to the survey were received with engagement from every CHO area
- Nominations were sought from key stakeholders to facilitate the formation of a working group informing the development of the standards for community residential mental health services. Stakeholders engaged as part of this process include mental health nurses, a psychiatrist, a clinical psychologist, a social worker, an academic with expertise in the area of community mental health, service user representatives and other relevant persons from the community mental health sector.

Work will continue on developing the standards for community residential mental health services in 2024 with the aim of publication before year end.

Quality Rights Initiative

Together with the World Health Organization, the MHC launched the 'Quality Rights Initiative' training in a human rights-based model of mental health care in Ireland. This explains how organisations and individuals can constructively and collaboratively contribute to advancing the rights set out in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Organisations from the public, private and NGO sectors across the country gathered in Dublin in December to pledge to promote a human rights-based approach to mental health care across the State.

National Quality Framework

The *National Quality Framework: Driving Excellence in Mental Health Services* and the associated self-appraisal tool were officially launched in April 2023. The National Quality Framework sets out the themes, standards and associated criteria considered essential for delivering quality and recovery-orientated mental health services in Ireland.

Members of the Standards and Quality Assurance team promoted the framework as a driver for change and improvement through virtual and in-person meetings with inpatient and community mental health services, and presentations at the HSE National CPD Day and the HSE National Heads of Service meeting in May.

A booklet detailing the main themes of the National Quality Framework was published and copies were provided to all attendees at three MHC-organised service provider engagement days in November.

Headspace Toolkit

In late 2023, the MHC commenced the revision of the *Headspace Toolkit*. This toolkit was originally published in 2009 and provides an age-appropriate guide to young patients who are receiving inpatient mental health care in child and adolescent approved centres. Its function is to empower young people by giving them practical information on rights, relevant legislation, and how to self-advocate.

An initial consultation to inform the content and design of the revised toolkit was held in October. This consultation consisted of a public consultation survey, focus groups and targeted interviews with young people who had previously used the toolkit, their families, YAP (Youth Advocate programme) advocates, staff who work with young people in approved centres, and other key stakeholders. Facilitated by YAP advocates, a survey was also sent to young people who are using the toolkit in the six CAMHS approved centres. The feedback provided useful recommendations for improving the content and re-design of the documents.

The MHC is currently finalising the toolkit and it is expected that the revised documents, and accompanying webpage, will be launched later in 2024.

Collaborative Working

Human Rights Initiatives

The MHC is committed to improving standards in Irish mental health services through the promotion and vindication of human rights. In

accordance with that commitment, the MHC has engaged Munster Technological University (MTU) to develop practical evidence-informed guidance and training for Irish mental health services on implementing a human rights-based approach to the care and treatment of service users. Led by Dr Catherine Carty, the research team at MTU initiated the consultation phase of the project in 2023 to gather crucial information on current awareness, practice and experiences related to human rights within Irish mental health services. This phase of the project involved the dissemination of a survey to service users and service providers with knowledge and lived experience of mental health services as well as the facilitation of targeted interviews and focus group sessions with other relevant stakeholders. Over 500 people were engaged during the consultation process and the information gathered will be used to inform development of the guidance and training resources in 2024.

Additionally, the MHC's Director of Regulation participated in a World Health Organization (WHO) consultation on the draft content of their guidance *on mental health policy and strategic action plans 'Mental health, Human Rights and Legislation: Guidance and Practice'*. The WHO's Comprehensive Mental Health Action Plan (2013-2030), requires member states to take concrete measures to develop, update, strengthen and implement national mental health policies and strategies with a global target of 80% of countries putting in place policy or plans in line with international and regional human rights instruments by 2030.

Participation in Working Groups

During 2023, the MHC participated in several working groups to share learnings and gain best practice insights. Those groups include:

Sharing the Vision: Recommendation 27 Working Group

The MHC is represented on the Sharing the Vision Recommendation 27 working group aimed at ensuring the co-production of recovery-focused individual care plans for all users of specialist mental health services. The group has two key objectives:-

- To explore the development of a national policy for co-production with reference to the process of co-production and recovery focused individualised care planning
- To identify existing training and resources available to support co-produced and recovery-focused individualised care planning.

CHUMS Project

The MHC was also represented on a working group for Dublin City University's CHUMS Project. Led by Dr Rebecca Murphy, the group aims to co-produce actionable knowledge in support of strengthening cultural humility in Irish mental health services. To achieve this aim, the group will adopt a three-pronged approach which encompasses:

- Gathering information to understand how well Irish mental health services currently care for ethnic minority populations.
- Designing how to action and test cultural humility in mental health services.
- Actioning guidance to support mental health services to use and test cultural humility in their services.

MHC/HIQA Joint Initiatives

In 2023, the MHC continued collaborating with HIQA to progress two new initiatives. These are:

- The development of a resource to assist health and social care services to prepare for and implement national standards
- The development of child-friendly resources to accompany the Draft Overarching National Standards for the Care and Support of Children using Health and Social Care Services

Scoping research was conducted in Q3 2023 to identify international best practice for the development of similar resources. Working groups comprised of key representatives from the health and social care sector were also formed in Q3 2023. Information gathered from the scoping research and working groups as well as from targeted focus group sessions with other key stakeholders will be used to inform the development of the new resources. It is envisioned that the resources will be ready for publication by Q3 2024.

Patient Safety Act 2023

Following the enactment of the Patient Safety

> Following the enactment of the Patient Safety Act 2023 on 4 May, the MHC put a project team in place which worked with the Department of Health, HSE, HIQA and the State Claims Agency to ensure the MHC is prepared for full commencement of the Act.

Act 2023 on 4 May, the MHC put a project team in place which worked with the Department of Health, HSE, HIQA and the State Claims Agency to ensure the MHC is prepared for full commencement of the Act. This included work to develop the systems that need to be put in place so that the MHC can receive notifications of all notifiable incidents under the Act.

Aclú

The MHC CEO chairs the Advisory Board of Aclú, a practical research initiative run by the UNESCO Chair at Munster Technological University examining and implementing physical activity, nutrition and digital technology interventions in residential mental healthcare settings in Cork and Kerry. Aclú aims to increase the use of such interventions in practice in mental health services in line with evidence on their effectiveness, international calls to increase such holistic care, and the right to health and CRPD.

Participation on Committees

In 2023, the MHC presented to a meeting of the:-

- Joint Oireachtas Committee on Disability to discuss the 'Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS)' in November
- Joint Oireachtas Committee on Health to discuss the 'Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS)' in October.

Stakeholder Engagement

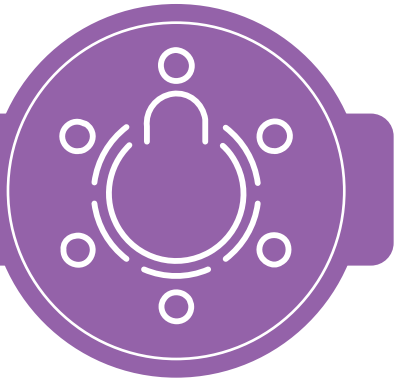
Service Provider Engagement Days

The S&QA and Inspectorate Teams hosted three service provider engagement days in Athlone, Cork and Dublin in November. Hosted by the Director of Regulation and the Inspector of Mental Health Services, 300 leaders, managers and staff of approved centres and community mental health services attended these information days.

The agenda included presentations on the MHC's upcoming regulatory programme, human rights and mental health services, draft standards for community mental health services, the MHC's National Quality Framework, safeguarding, the use of restrictive practices and the Assisted Decision-Making (Capacity) Act 2015 for mental health services. A panel discussion and Q&A session with mental health staff also took place where changes and impacts associated with the revised Mental Health Act were discussed.

Mental Health Tribunals

Mental Health Tribunals



Introduction to Tribunals

Mental Health Tribunals (tribunals) play a key role in vindicating the rights of those involuntarily detained and while they relate only to a tiny percentage of people, those people are some of the most vulnerable in our society and require our support and assistance.

Voting rights for involuntarily detained persons

The Electoral Act 1992 was amended by the Electoral Reform Act 2022 and some of its provisions were commenced in 2022 with the remainder in 2023. The amendments arose for several reasons, one of which involved a case brought by an involuntarily detained person who was unable to vote as they were in an approved centre[8].

The impact of the change in the law is as follows -

- If an involuntarily detained person satisfies the registration authority that he/she is ordinarily resident in a hospital or home or similar institution and wishes to vote at a particular location but is unable to go in person to vote by reason of his/her illness or disability, he/she shall make an application (in a certain format) to be put on the special voters list. A certification by a registered medical practitioner must accompany the form. Electors on the special voters list vote at the hospital, nursing home, mental health facility or similar institution where they are residing by marking a ballot paper delivered to them by a special presiding officer accompanied by a Garda.
- A person may also apply to be entered on the postal voters list as being unable to go in person by reason of illness or disability and shall make an application (in a certain format).

This change in the law shows the ongoing support of the State for the human rights of those involuntarily detained, its respect for the autonomy of the person and the right of detained people to have their voice heard.

In 2023, the MHC established a working group to produce practical ways to highlight this right for both those involuntarily detained and approved centre staff and to ensure a system will be implemented for the elections and referendums in 2024.

Further information on the changes to voting rights can be found at https://www.mhcirl.ie/what-we-do/mental-health-tribunals/information-patients.

Impact of the Assisted Decision Making (Capacity) Act 2015 (as amended) (the 2015 Act)

The MHC expressed concerns about two sections of the 2015 Act and the impact it had in relation to those involuntarily detained, the main concern being that those involuntarily detained would not have the same access to the provisions of the 2015 Act, as all other persons, because of their mental disorder[9]. The relevant sections were section 85(7) (relating to Advance Healthcare Directives) and section 136 (patients whose treatment is regulated by Part 4 of the Act of 2001). After a series of discussions with a variety of groups, in particular the MHC, amendments were made by the Department of Children, Equality, Disability, Integration and Youth, which impacted the tribunal process.

In summary, the impact of the amendment was that those detained under Section 3(1)(a) of the 2001 Act would not have access to the 2015 Act

[8] The person instructed her MHC legal representative in this case.

[9] The MHC acknowledges that many other groups also expressed concerns

and those detained under Section 3(1)(b) of the 2001 Act would have access to the 2015 Act.

From 26 April 2023, when completing and signing an admission order or a renewal order, a consultant psychiatrist now had to expressly give their opinion on the relevant sub-section(s) of section 3 of the 2001 Act upon which the person was to be detained. Section 3 of the 2001 Act states:-

- 3(1)(a) - because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons (commonly referred to as the 'risk' ground)
- 3(1)(b) - because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission and the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent (commonly referred to as the 'illness/therapeutic' ground)

From 26 April to 31 December 2023 the following was noted based on the amended forms:-

- 5% of orders were made indicating detention on the basis of section 3(1)(a),
- 71% of orders were made indicating section (3)(1)(b), and
- 24% of orders were made indicating sections (3)(1)(a) and (3)(1)(b).

The corresponding figures for 1 January to 25 April 2023 are 5%, 69% and 26%

Table 1 in the Appendices provides further detailed information.

The relevance of the amendments for tribunals is that they need to check if a person is detained under Section 3(1)(b) and what decision support arrangements are in place, if any, under the 2015 Act. If there is an arrangement the following is a summary of what is relevant for the tribunals:-

1. Decision Making Assistance Agreement – Not relevant per se as the Decision-Making Assistant cannot make any decisions for the person.
2. Co-decision Making Agreement – May be relevant in that the Co-Decision Maker makes decisions with the person and the person might want them to attend the tribunal. It is up to the MHT to consider this issue.
3. Decision Making Representative Order (DMROs) – Decision-making representatives (DMR) cannot make decisions with regard to detention or restraint. A DMR would only attend a tribunal if the DMRO specifically addressed the issue. A copy of the order would have to be produced to the tribunal.
4. Enduring Powers of Attorney – Not relevant as they do not extend to treatment decisions.
5. Advance Healthcare Directives (AHD) – A person can refuse treatment, but the AHD would need to be specific in addressing that.

As of 31 December 2023, the tribunals have not had to consider the above as arrangements under the Act were only being made and registered. It will be interesting to see if this changes during 2024.

What is a mental health tribunal?

Under the Mental Health Acts 2001-2018 (the 2001 Act), every adult who is involuntarily detained in an approved centre shall have their detention order referred to an independent tribunal to be reviewed. This is a core requirement in vindicating and upholding a detained person's human rights.

The 2001 Act sets out how this mandatory system of independent review operates. The independent review must be carried out by a tribunal within ***21 days*** of the making of the order. The tribunal is made up of three people: a solicitor/barrister as chair, a consultant psychiatrist and another person, often referred to as a lay person.

The issues to be considered by the tribunal are:

1. Whether the person has a mental disorder as of the date of tribunal, and
2. Whether there has been compliance with certain specified sections of the 2001 Act and if not, does that non-compliance affect the substance of the order.

Having considered the above issues, the tribunal must affirm or revoke the order. Currently, the decision of a tribunal is not published. However, it is proposed under the General Scheme to amend the 2001 Act, as published in July 2021, that all tribunal decisions will be published in an anonymised format. In preparation for this, all tribunal decisions are now delivered in typed and not handwritten format.

As part of this process, the MHC assigns each detained person a legal representative (covered by legal aid) but, if they so wish, the person may seek to have another solicitor from the MHC's panel appointed to them and the person may also appoint their own private solicitor.

The MHC also arranges for the detained person to be reviewed by an independent consultant psychiatrist, whose report is provided to the person's legal representative and the tribunal.

Parties who may attend a tribunal in addition to the tribunal members are the detained person (who may not always attend), the person's legal representative (if the person wants them to attend) and the person's treating consultant psychiatrist.

Involuntary Detention (admission and renewal orders)

A person can only be admitted to an approved centre and detained there if he/she is suffering from a mental disorder (as defined in section 3 of the 2001 Act).

An involuntary admission of an adult can occur in two ways: an involuntary admission from the community, or the re-grading of a voluntary patient in an approved centre to an involuntary patient.

In such cases, the admission order is made by a consultant psychiatrist on a statutory form (Form 6 or 13). If the person is detained on a Form 6, the form must be accompanied by other statutory forms, which include an application form (Forms 1, 2, 3A, 3B or 4) and a recommendation form signed by a registered medical practitioner (Form 5).

The initial order detaining a patient, known as an ***admission order***, is for a maximum of ***21 days***.

The detention can be extended by a further order, known as a ***renewal order***, the first of which can be for a period up to three months (but can be for a lesser period) and the second for a period up to six months (and again this can be for a lesser period).

A renewal order **can only be made** after the consultant who is responsible for the patient reviews the patient not more than one week before the making of the order and comes to the conclusion that he/she is still suffering from a mental disorder. In 2023, it came to our attention via the tribunal decisions that on two occasions an order was made more than one week before the expiration of the order, which invalidated the order. A consultant psychiatrist, when making an order for up to three or six months, does not have to make the order for the full period and must use their clinical judgement to decide what is the appropriate period. Each of these renewal orders is sent to a tribunal to be reviewed.

In 2023, the following orders were made:

- 1,951 admission orders from the community
- 565 admission orders by way of re-grading
- 865 renewal orders for a period up to three months
- 257 renewal orders for a period up to six months

From 2022 to 2023, there was a 4% decrease in admission orders and a 2% decrease in renewal orders.

Figures 1-3 and **Table 2** in the Appendices provide detailed information on admission and renewal orders.

Additional Reviews

Since October 2018, the maximum period for which an order can be made to involuntarily detain a person is six months. If a person is detained for longer than three months during that six-month order, the person is entitled to an additional review by a tribunal. **This is an extra safeguard for patients**. The additional review only considers the issue of mental disorder; it does not address any issues related to compliance, which are to be addressed at the initial hearing for the order.

In 2023, there were 166 detained persons who were eligible to seek an additional review, of which:

- 24 requests were received for a tribunal hearing.
- 3 orders were revoked before the hearing took place.
- 21 hearings took place with 19 orders being affirmed and 2 orders being revoked.

The positive message from the above is that twenty-four patients had an opportunity to have their detention reviewed before the end of the six-month order and five of those had their orders revoked either before or at the hearing as they did not have a mental disorder.

However, the MHC has expressed concern since 2020 that despite its best efforts in taking additional measures to address this low uptake - to include preparing and distributing a dedicated leaflet with regard to a patient's right to an additional review, addressing the issue in other information leaflets, placing an automatic reminder for legal representatives on our ICT (CIS) system to contact their client if three months of the six month order has elapsed and addressing the issue with legal representatives at our seminars with them - the low uptake continues.

At the time of publication of this report the Department of Health (DoH) is working on the Bill to amend the Mental Health Acts. The MHC has submitted to the Department to consider limiting detention orders to 21-days and three-month orders, with no six-month orders, thereby allowing all patients to be automatically reviewed on a more regular basis. To support this the number of six-month orders has been declining year on year since 2019 – when 328 were made. In 2023, 257 were made – and many of those were for a three-month period.

Tribunal Hearings

3,638 orders were made in 2023. It is noted:

- 1,915 orders were revoked before hearing – 52.2%
- 1,753 orders went to hearing – 47.8%

Of the 1,753 orders that went to hearing 215 were revoked at hearing – 12.3%

> A consultant psychiatrist responsible for a patient must revoke an order if he/she becomes of the opinion that the patient is no longer suffering from a mental disorder.

Orders revoked before tribunal:

A consultant psychiatrist responsible for a patient must revoke an order if he/she becomes of the opinion that the patient is no longer suffering from a mental disorder.

In deciding whether to discharge a patient, the consultant psychiatrist has to balance the need to ensure that the person is not inappropriately discharged with the need to ensure that the person is only involuntarily detained for so long as is reasonably necessary for their proper care and treatment.

Where the responsible consultant psychiatrist discharges a patient under the 2001 Act, they must give the patient concerned, and his or her legal representative, written notice to this effect. In 2023, it was noted that this was not always done or done promptly. When a patient's order is revoked, they may leave the approved centre, or they may agree to stay to receive treatment on a voluntary basis. All of this must be explained to the patient by the responsible consultant psychiatrist and other members of the patient's treating team.

Please refer to **Figure 4** in the Appendices.

Orders revoked at tribunal:

A total of 1,753 orders were reviewed by a tribunal and of those 215 orders were revoked at hearing. The number of revocations for 2023 decreased to 12.3% from 13.6% in 2022 (the figure for 2020 was 11.5% and 2021 was 10.6%).

In relation to these revocations please note:–

No	Issues	Number of Revocations	% of Revocations
1	No mental disorder (section 3 not met)	132	61%
2	Errors with sections 9 to 12 (applications and recommendations for involuntary admission) and the related Forms	26	12%
3	Errors with sections 14 and 15 (admission and renewal orders for involuntary admission)) and the related Forms	22	10%
4	Patient Notification Form issues (information to be provided to the patient from the admission and renewal orders)	13	6%
5	Errors with sections 23 and 24 (admission order where someone is regraded) and the related Form	13	6%
6	Non-compliance issues other than those referred to above	1	1%
7	No mental disorder (section 3 not met) and non-compliance issues	8	4%
	Total	215	100%

We really welcome the reduction in percentage and number of orders revoked due to non-compliance. This is due to the hard work of the MHC, the staff in the approved centres and in other services. Approximately 61% of cases were revoked because of no mental disorder being present (did not meet the criteria in section 3 of the 2001 Act) and 35% solely for reasons of non-compliance with statutory provisions (Nos. 2-6 above) with 4% being revoked for a combination of both. However, there is still a lot of work to be done in relation to the issues of non-compliance.

Please note that –

- The largest number of cases were revoked due to errors by An Garda Síochána in completing the application forms for detention. While these errors had been declining for most of the year they began to increase again in the last quarter. The MHC has worked and will work with An Garda Síochána to investigate why and address this in 2024. We want to thank An Garda Síochána, who has actively engaged with the MHC on these issues.
- It is also important to note that not all section 9 applications are made by An Garda Síochána. In 2023. some orders were revoked due to non-compliance by family members and authorised officers when completing the applications.
- The next area of non-compliance relates to completion of the admission (Form 6) and renewal orders (Form 7) and the associated patient notification form by the responsible consultant psychiatrist. Overall, the non-compliance in this area has improved but we need to continue training to address this. A submission has been made to the Department about merging the Patient Notification Form with the detention order to have only one document.
- Finally, the other main area of non-compliance relates to admissions pursuant to the section 23 and 24 process, which tends to give rise to factual conflicts at tribunal hearings, which might in some cases be addressed by better record keeping. It is hoped that the proposed amendments to these sections in the forthcoming amending legislation will address the issues which tend to arise here.

Tribunals for transfers to the Central Mental Hospital (CMH)

There were two proposals received to seek the transfer of a patient to the CMH in 2023. In one instance, the person's order was revoked before the hearing to review the proposal went ahead. In the other instance, the proposal was authorised by a tribunal, but the person's order was revoked before they were transferred. It is interesting that in both cases the person was thought to need specialist treatment in the CMH but later had their order revoked.

> The MHC in its submission to the Department in March 2020 sought for section 28 to be reviewed to assist persons involuntarily detained, those representing them, and the tribunal members.

Section 28 tribunals:-

If an order is revoked before a tribunal, the patient can still proceed to have a tribunal. This is commonly referred to as a Section 28 tribunal. Of the 1,915 orders revoked before hearing, there were 21 requests for Section 28 tribunals of which 13 proceeded to an actual hearing. This is a very small percentage (1%) of the orders revoked before hearing.

The MHC in its submission to the Department in March 2020 sought for section 28 to be reviewed to assist persons involuntarily detained, those representing them, and the tribunal members. A case was sent to the Court of Appeal on certain matters concerning section 28, which will be heard in 2024.

Admissions from the community

There were 1,951 admission orders from the community in 2023. One of the issues which the MHC considers each year is who makes these applications.

The key changes in the 2023 figures compared to 2022 are:–

- applications by family members are down by 1%,
- applications by authorised officers (AOs) are up by 2%,
- applications by An Garda Síochána are down by 4%, and
- applications by 'any other person' are up by 3%[10].

Please refer to **Figure 5** and **Figure 6** in the Appendices.

The MHC would note the following in relation to these findings:

- There is a continued decrease in applications by family members
- It is disappointing that applications by AOs have only increased by 2% from 2022 given all of the engagement over the last number of years
- The decrease in applications by the Gardaí is welcome but it is only a very small move in the right direction and a lot more work needs to be done to continue this trend
- It is difficult to assess fully the applications by other persons as these include doctors in Emergency Departments, which would in many cases be considered appropriate, albeit the call on Emergency Departments is made at a critical point.

The MHC will continue to liaise with the following:

1. The Department to ensure that the legislation is amended, as per the General Scheme, to ensure that detentions should not be made by An Garda Síochána or only in exceptional cases.
2. The HSE to chart the progress of its Authorised Officers Working Group with regard to the proposal in the General Scheme that all applications for detention be made by authorised officers.
3. An Garda Síochána in relation to any practical matters to ensure up-to-date knowledge of the law and the relevant statutory forms and how they should be completed.
4. All other related stakeholder groups.

Voluntary to Involuntary

If a voluntary patient indicates a wish to leave an approved centre, they can be involuntarily detained if a specific member of staff is of the opinion that the patient is suffering from a mental disorder. A detailed process must be undergone before this can happen, which includes the fact that the person must be reviewed by their responsible consultant psychiatrist and a second

[10] Other person is very wide and can include a doctor in an A&E department.

consultant psychiatrist. The order detaining the person will also be reviewed by a tribunal.

As noted above, there were 565 such admissions notified to the MHC in 2023.

Age and Gender

Analysis of age and gender for episodes of involuntary admission in 2023 can be found at **Tables 3, 4 and 5** in the Appendices and three of the key findings are as follows:

- 23% of the admissions related to people aged 35-44 (the same as 2022).
- 51% of the admissions were male.
- There were more female admissions than male in the age groups over 45.

Quality Improvement

The MHT undertakes audits across three main areas:

- The work of the MHT team
- The decisions of the tribunals
- Issues arising in approved centres of which we are aware

Audit on the work of the MHT team

The team conducts 11 audits on the services provided by the team and by panel members who are assigned to tribunals. Some items of interest from these audits are:-

- From a sample of 180 tribunals 91% were scheduled within 12 days of the making of an order
- People may choose a different solicitor from the MHC's panel of legal representatives than the one that was assigned to their case. Eleven people chose to be represented by another legal representative from the panel.
- People are also entitled to be represented by their own private solicitor or represent themselves under the Constitution. Two people sought to be represented by their own private solicitor.
- One person chose to represent themselves (some people sought to do so directly at the tribunal and without notice to the MHC).

Audit of the tribunal decisions

The audit relates to affirmed decisions and covers a number of issues. Some of the key findings are as follows:–

1. 120 decisions over a 12-month period were reviewed.
2. 45 of the 120 detained persons did not attend the hearing (this does not take into account those that do not attend for the decision).
3. In 18 of the 120 decisions the tribunal did not separately address the issues of compliance and mental disorder as required in section 18(1) of the 2001 Act.

Audit relating to the approved centres

This audit is done on a quarterly basis following which reports are sent to the individual approved centres.

One hundred and fifty-one issues were logged. Of note:

1. 79% of the issues were in relation to revocations of orders that were signed and received on the day of the patient's tribunal hearing, **several** at the time that the tribunal was due to commence.
2. 5% related to Forms received later than the statutory 24-hour timeline, with consequences for the validity of the detention in some of those cases.
3. Some of the other issues that arose included the receipt of
   - **a.** partial or incomplete orders
   - **b.** orders with contradictory information
   - **c.** multiple, overlapping orders for the same individual
   - **d.** non-tribunal related information

It is important to acknowledge and recognise the work done by approved centres given that the number of issues has reduced from 192 in 2022 to 151 in 2023.

High Court cases in 2023

There were a few legal challenges brought by involuntarily detained persons in 2023, some against approved centres and some against the tribunals. Some of the cases were conceded and others went to hearing and judgements were issued.

In one case a person was brought to an approved centre to be involuntarily detained, but the Consultant Psychiatrist did not detain the person although they met the criteria for mental disorder, as the paperwork was not correct. The person stayed on a voluntary basis and was subsequently involuntarily detained under sections 23 and 24. There was a challenge to the validity of the period of the voluntary stay. In that case, the clinical records and the evidence of the consultant supported the fact that the person was aware they were not detained. This again emphasises the basic point in terms of communication by staff in the approved centre with the person and good record-keeping.

Another case dealt with section 73 of the 2001 Act which requires an involuntarily detained or former involuntarily detained person to seek the leave of the court if they wish to bring proceedings regarding an act done under the 2001 Act. Proceedings were brought to challenge an involuntarily detained persons right to issue proceedings when leave was not obtained. The court had to consider whether the proceedings issued came within the remit of section 73 or fell outside it. The court held that certain parts of the case came within the remit of section 73 (i.e., were civil proceedings) and therefore could not be pursued but the remaining parts of the proceedings involving the constitutional challenge could be pursued. The court noted that habeus corpus and judicial review applications may also be issued without the leave of the court.

(Please note that section 73 is due to be removed in the forthcoming amendments to the mental health legislation.)

Circuit Court Appeals

Patients can appeal the decision of a tribunal to the Circuit Court. However, the appeal does not consider the decision of the tribunal. The Circuit Court only considers the issue of mental disorder and does so as of the date of the appeal.

The Supreme Court held that a renewal order extends the life of an admission order. Therefore, when someone has appealed the decision of a tribunal in relation to an admission order, which is then extended by a renewal order, the appeal can still proceed as the court will consider whether the patient is suffering from a mental disorder as of the date of the appeal. If the order is revoked by the court, this will extend to the renewal order even it is not specifically the subject of the appeal to the court, the entire detention shall come to an end.

The MHC was notified of 152 Circuit Court appeals in 2023. This is an increase from 2022 (146 appeals) and is now back to pre-Covid-19 figures.

Of the 152 appeals received in 2023:–

- 131 appeals did not proceed to full hearing.
- 15 appeals proceeded to full hearing.
- 15 orders were affirmed by the Court.
- No orders were revoked by the Court.
- Some cases that were appealed in 2023 had not gone to hearing by 31 December 2023.

In 2023, a case was made to the Court of Appeal that, in summary, was seeking to ascertain whether an order revoked before or at a tribunal hearing may be appealed to the Circuit Court. As noted above, the case will be heard in 2024.

Finally, the MHC in its submission to the Department of Health to amend the 2001 Act recommended several legal and practical amendments in relation to Circuit Court appeals; most notably that the approved centre shall be the respondent to the proceedings as the detainer. This is in addition to the fact that the burden of proof should rest with the detainer and not the patient.

Department of Health

The MHC would like to thank the Minister for State and the Mental Health Unit in the Department of Health for their ongoing support for the work of the tribunals process and the importance of that support to those involuntarily detained. The Department agreed to the restoration of professional fees to the level pre the emergency reductions in 2009, the payment of certain fees in relation to circuit court appeals to include stamp duty and the introduction of an additional fee if a tribunal is adjourned at the request of the person involuntarily detained or otherwise.

Report of the Inspector of Mental Health Services

Prof Jim Lucey MD (Dub) PhD (Lond) FRCPI FRCPsych

Report of the Inspector of Mental Health Services

Table of Contents

Introduction

Following Dr Susan Finnerty's retirement in July 2023, I was appointed Inspector of Mental Health Services at the Mental Health Commission (MHC). My report relates to the 2023 inspection of approved centres in the Republic of Ireland taking into consideration the findings at inspection for the full calendar year. My report should be seen in the light of the data included in this report. I would commend everyone to read this data carefully. Before proceeding, I would also like to place my report in context.

Appointment of the new Inspector

It is an honour to be appointed Inspector at the MHC. I hope that I will be able to rise to the high standards of public service set by my predecessor. I intend to work fully with the Minister, the Oireachtas, the Departments, the MHC Board and my colleagues at the MHC, service providers and service-user representatives to enhance and promote human rights-based quality mental healthcare in Ireland. My role is to inspect in accordance with the legislation. Earnest participation from all sides will be required if standards of mental health care are to rise and full compliance is to be achieved.

The CAMHS Report

Dr Finnerty's groundbreaking report into the functioning of Child and Adolescent Mental Health Services (CAMHS) in Ireland was published in the summer of 2023. Over the course of the year her report was shared with the Minister for Mental Health and Older Persons, the Department of Health, the HSE, with CAMHS providers and with two Oireachtas Committees and the media.

I do not propose to go into further commentary about CAMHS at this stage. It is sufficient to say that I have, as of yet, received no new powers of inspection or regulation. However, I look with hopeful anticipation to the prospect of new mental health legislation. This legal provision has been long promised. I continue to believe that it will address the evident issues.

2023 Inspection Results

The detailed results of the 2023 Inspection are tabulated in the enclosed report prepared by my colleague, the MHC Director of Regulation, Mr Gary Kiernan. In this, my first annual report for the MHC, I will comment on the trends in these findings which were obtained at inspection, and I will make a few urgent recommendations.

Sixty-six approved centres were inspected in 2023. These therapeutic locations are dedicated to the acute care of people with serious mental health difficulty in a residential setting. My inspection found that less than two fifths (39%) of these approved centres were more than 90% compliant with regulations, and only five centres achieved 100% compliance.

MHC regulations represent minimum standards. They are based upon legislation which came into effect in 2006. And yet, still, after 18 years in operation, only a small minority of approved centres regularly achieve full compliance. The continued failure to achieve compliance with minimum standards is a cause for concern.

Lower Compliance Rates in 2023

A total number of 22 approved centres had compliance rates under 80%. Comparison with previous years is revealing. In 2022 a total of nine centres fell below 80% compliance. In 2021 that number was seven. The trend of non-compliance in approved centres is going in the wrong direction. These low rates are linked to a history of poor governance, inadequate investment levels and an outdated regulatory framework long overdue for revision. In reality, governance and management has not kept pace with patient needs, expectations and rights.

National Variation in Compliance Rates

The inspection found substantial variation in compliance with regulations across the country and across the HSE's Community Healthcare Organisations (CHOs). Some centres achieved compliance rates 10% ahead of others. The average compliance rate for HSE CHOs was 83%. This compared to average compliance rates in approved centres operated by independent providers at 91%.

These disparities in compliance are multifactorial, but they are both geographical and provider based. The data reveal the full extent of inequality across the acute mental health system. Falling rates of compliance with MHC rules, regulations and codes of practice reveal a deteriorating picture, one with real consequences for service-user experience.

Areas of Full Compliance

The inspection findings regarding regulations are not uniformly negative. Many regulations were complied with fully across the vast majority of centres. The regulations which were in compliance differ materially from those ten regulations most frequently in breach. I will refer to this distinction later in my report.

Statutory Rules and Codes of Practice

Statutory rules and codes of practice are in place for the protection of residents in order to vindicate their human rights. In addition to the statutory rules covering the use of electro-convulsive therapy (ECT), there are rules covering restrictive practices, seclusion and mechanical restraint. Average compliance with these rules is 74%. This picture is also deteriorating. Average compliance with the same statutory rules in 2022 did not fall below 83%. Once again, the trend of non-compliance is going in the wrong direction.

The findings regarding the codes of practice are also disappointing. Four codes of practice cover the use of physical restraint, ECT for voluntary patients, the admission of children to adult units and the admission, transfer and discharge of residents from approved centres. Compliance with all four codes averaged just 57% in 2023. The inspection found that less than three fifths of centres achieved this minimum standard. While it is disappointing to see compliance fall, it is heartening to note that, in general, the use of restrictive practices is declining in approved centres.

Ten Most Problematic Regulations of Non-Compliance

So, in addition to consideration of regional and provider-based variation, it is helpful to examine the inspection findings in terms of their content and to do this by looking at issues of regulation against issues of dysregulation within Irish approved centres.

At inspection, I found that most centres achieved full compliance with most regulations. Closer examination of the data shows that 19 regulations were found compliant in more than 85% of centres and in ten of these regulations a compliance rate of 100% was achieved across all centres. The full tables are listed elsewhere in the regulator's report.

My report seeks to highlight this discrepancy by focussing upon the ten most frequently breached regulations.

The table below shows the regulation number, its description and the percentage of centres achieving compliance with each of these regulations.

Table 19: *ten most frequently breached regulations*

Reg 16: Therapeutic Services	79%
Reg 27: Records	77%
Reg 25: CCTV	76%
Reg 23: Medication	73%
Reg 19: General Health	73%
Reg 21: Privacy	71%
Reg 15: Individual Care Plan	59%
Reg 32: Risk	56%
Reg 26: Staffing	39%
Reg 22: Premises	27%

Breaches of these regulations relate to clinically important standards likely to be highly relevant to service-user experience. Deficits in these regulations are therefore the most urgent and pressing sources of jeopardy for those involved in the therapeutic alliance, specifically, those receiving care as well as those providing it. Since these regulations are person-centred, breaches in these areas are humanly impactful.

Premises

With regard to Regulation 22 'Premises', only 27% of approved centres meet minimum standards. The rest remains in breach. The Inspectorate has been calling for meaningful address of this breach regarding premises for several years and yet the evidence of poor premises persists. My first report repeats this finding and so now I repeat the call for a genuine remedy. As Inspector, I am calling on the proprietors, particularly the HSE, to mobilise the capital programmes required to remedy the deficits in their premises and to do this without further delay and in the interests of all those using their centres.

The Impact of Substandard Operations in an Approved Centre

The impact of substandard operations within an approved centre is clearly evident at inspection. Through resident interviews and reviews of service user concerns it is clear that breaches in minimum standards have consequences for service user experience and for personal recovery. The list of ten person-centred breaches of standard is very concerning. It includes; Regulation 16: Therapeutic Services, Regulation 27: Maintenance of Records, Regulation 25: CCTV, Regulation 23: Ordering, Prescribing, Storing and Administration of Medicines, Regulation 19: General Health, and Regulation 21: Privacy. These regulations are not compliant in more than one fifth of approved centres.

The Inspectors Concern for Therapeutic Standards

I am very concerned regarding the impact of the failure to meet these minimums standards on therapeutic care. In this year's inspection I found two fifths of centres in breach of Regulation 15: Individual Care Plan and Regulation 32: Risk Management Procedures, and three fifths of centres in breach of minimum standards around Regulation 26: Staffing and Regulation 22: Premises. These findings are for 2023 but these regulations have been substantially in breach in several centres for many years.

Two questions arise:-

1) Does any of this matter?

2) What is the MHC doing about it?

I will attempt to answer each of these questions briefly.

Question 1
Why Compliance with Regulations Matters a Great Deal

Mental Health Care Is a Human Right.

The protection of the dignity and rights of mental health service users is a priority for the MHC and for our society. The 2006 regulations and subsequent amendments to the legislation require the MHC to enhance and promote mental health services by vindicating service-user human rights. This independent legislative mandate is in response to our history and in recognition of genuine therapeutic progress and of our increased understanding of human rights. A silence about failures to meet minimum standards is not an option.

Supporting Patients, Staff and the Public

Appropriate mental healthcare is of benefit to everyone including those directly involved in the therapeutic endeavour. Standards are there to protect the service users, to support the staff and to assure the public. After many years in clinical practice, I can say this because I know it is true. The people who provide our mental health services are dedicated, qualified and honourable people. They deserve to work in services with meaningful investment, substantial support and effective leadership. Failure to meet minimum standards is not an option for our staff or our patients. Deficits have an impact on recruitment, retention and the continued function of all involved.

Medication and Privacy Concerns

Substandard centres across the world have been associated with worrisome deficits in clinical care. Several areas of breach found in this year's inspection raise my concerns even further. I am particularly uneasy regarding compliance with regulations governing medicines and privacy. This year only 73% of approved centres were compliant with minimum standards regarding the ordering, prescribing, storing and administration of medicines. Only 71% of centres are compliant with minimum standards on privacy. Breaches of these standards are highly likely to have negative impacts on individual service users experience.

Many residents brought these two matters to my attention on inspection. A lack of pharmacy oversight was noted in many centres along with concerns expressed by many services users regarding side effects and risks of medication prescribed. A greater degree of pharmacy input and increased participation by service users in care planning would help to address these issues.

Question 2
What Is the MHC Doing About These Findings?

Regulatory Response

Resulting from these findings and in response to incidents, events and serious concerns arising in 2023, the MHC regulator made 52 specific enforcement actions. This is the highest volume of enforcement action taken by the MHC in five years. Issues requiring enforcement arose in the context of deficits in therapeutic services and programmes, lack of appropriate staffing at approved centres and inadequate risk management procedures. The largest deficit related to premises, with only 27% of centres meeting minimum standards.

Rising need for Enforcement Actions

These significant steps are taken in keeping with our regulatory responsibilities and they are always limited to powers within the Act. It would be a better use of time and resources if service providers immediately engaged in a meaningful programme of proactive improvements which negated the need for such enforcement.

In addition to the 52 enforcement actions, 25 new conditions were attached to the registration of 13 approved centres, relating to staff training, premises, compliance, safeguarding and quality improvement. This compares to 14 new conditions attached to 12 approved centres in 2022, and three new conditions attached to three approved centres in 2021.

Caring for the Staff

The evidence locally and internationally is that regulatory enforcement measures such as these lead to progress in service user benefits and staff experience. There is evidence of good quality care in many of Ireland's approved centres. This is true in those rare centres with full compliance but also in many other centres. Supported staff are compassionate staff and they care for their patients every day in intelligent, humane and ethical ways. My inspections found widespread evidence to conclude that those working in approved centres in the Republic of Ireland are making the best of very difficult circumstances. As Inspector I wish to acknowledge and thank every one of them for their therapeutic work.

Evidence of this compassionate professionalism is supported by some improving MHC data. This is apparent in the area of restrictive practices. Rates of these appear to be falling. For example, there were 896 episodes of seclusion involving 475 residents in 2023 compared to 1202 episodes involving 579 residents in 2022 There has been a similar 9% reduction in physical restraints. The evidence suggests this shift is occurring through a widespread adoption of a more human rights-based approach. These therapeutic measures are supported by new rules and new reporting systems introduced by the MHC in 2022. Better education, training and provider engagement will help to progress all this. We will continue to observe and commend this trend as it moves in the right direction.

Submitted Issues of Concern

The MHC does not have the legal power to investigate complaints. However, if an issue of concern is received by the MHC about a mental health service, this is referred to the Submitted Issues of Concern (SIC) Committee. The Committee consists of the Inspector of Mental Health Services, the Director of Regulation and an administration team. People may submit issues of concern through any communication medium and each concern is considered by the SIC Committee.

An issue of concern is a report from a member of the public and must relate to the health, wellbeing or safety of a person in receipt of mental health services. Each issue is considered and acted upon immediately or taken under consideration during the next annual inspection of that service.

The Submitted Issues of Concern Committee received 580 individual concerns and 1,024 communications regarding these concerns in 2023. Responses may include a request for information from the relevant mental health service, advice as to where and how the person raising the concern may make an official complaint, advice regarding support organisations, or advice about contacting other regulatory bodies.

Figure 13: *Number of concerns received in 2023*

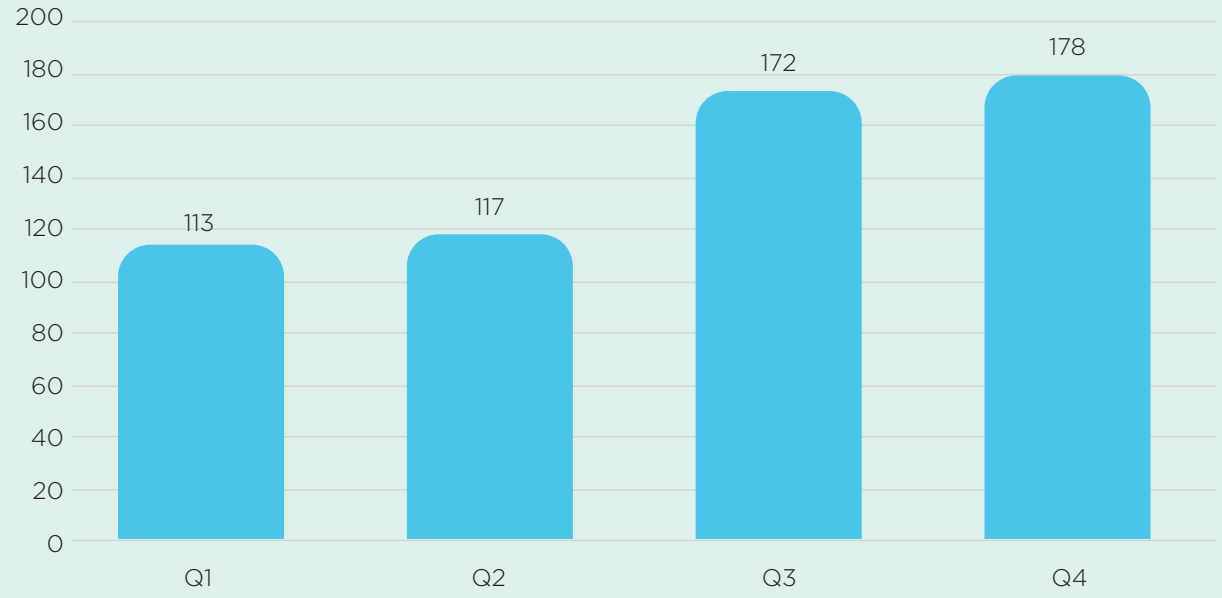


Figure 14: *Number of concerns reviewed 2020-2023*

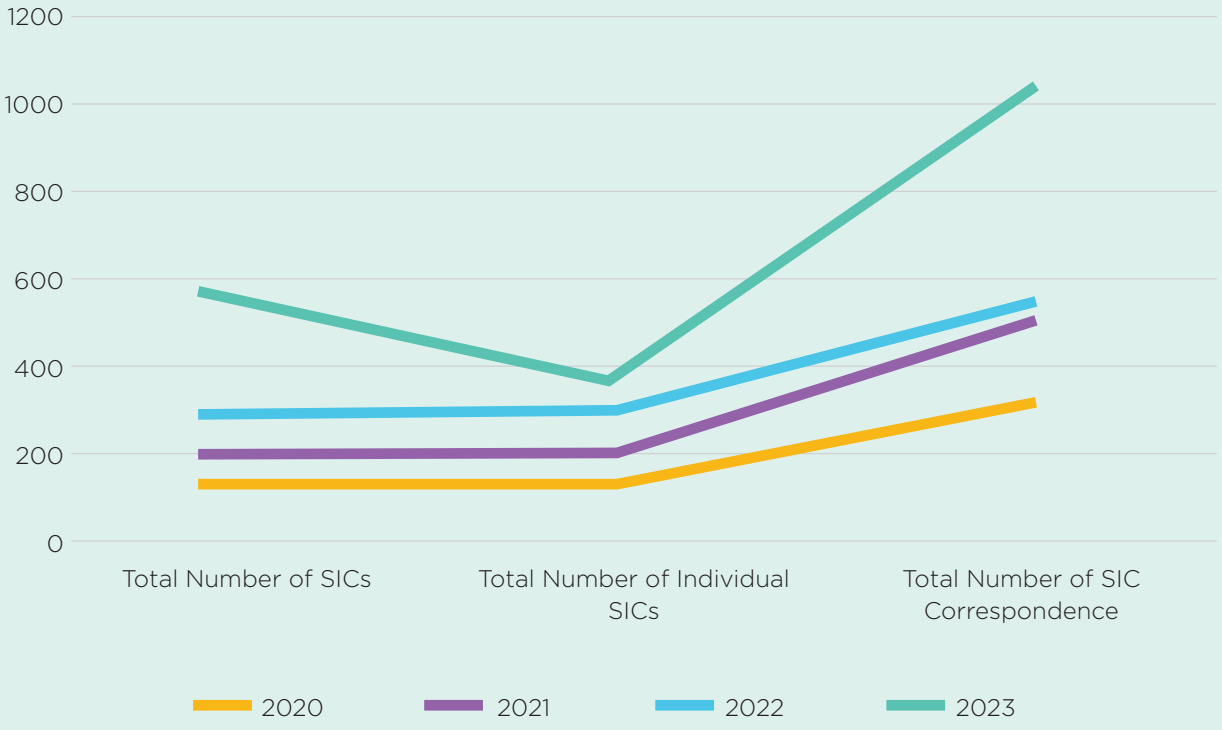


Table 20: *The Number of Concerns received per CHO*

CHO	Overall	Individual
CHO 1	24	13
CHO 2	33	19
CHO 3	33	18
CHO 4	63	33
CHO 5	20	16
CHO 6	12	10
CHO 7	38	24
CHO 8	59	33
CHO 9	58	35
CAMHS/Children	18	15
Independent	38	23
Forensic	10	7
NIDS	2	2
Other	27	19
N/A	81	57

There has been a notable increase in the submission of concerns into the MHC over the past few years. We feel that this increase is due to the increasing awareness of peoples' right to a quality mental health service leading to action.

We welcome views, comments and concerns about mental health services and the process for contacting us is on our website www.mhcirl.ie.

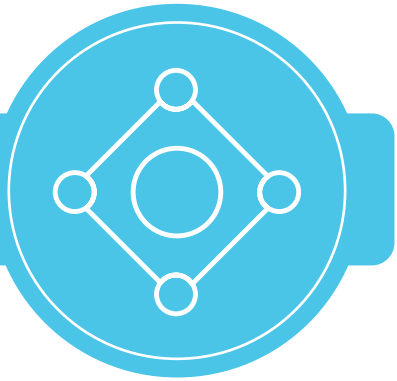
Conclusion

To close, the findings of the 2023 inspection programme raise serious concerns for the users of acute inpatient services in the Republic of Ireland and for those who work in them. My findings reveal a persistent failure by many approved centres to meet minimum regulatory standards especially in key areas of staffing, care planning, risk management and premises. A number of regulations relating to medication and privacy are also increasingly in breach. Issues of patient safety are becoming a real cause for concern. These deficits are likely to be associated with negative experiences for patients and staff alike. Breaches of minimum standards are not compatible with a human rights-based approach to acute mental healthcare. They indicate a level of service which too frequently falls short of that which our citizens and our staff need and deserve. Acute inpatient mental health centres are an essential part of our mental health service and always will be. Standards in these acute services should no longer fall below the regulatory minimum.

The time has come for wholehearted embrace of modern standards of care and for meaningful investment in acute mental health services in Ireland.

Communication and Stakeholder Engagement

Communications and Stakeholder Engagement



The objective of the communications team is to proactively contribute towards the realisation of the organisation's strategic objectives by helping to drive awareness of the MHC, and by effectively communicating about the Assisted Decision Making (Capacity) Act 2015 and the DSS.

The delivery of a new communications strategy was a key business objective in 2023. The aim of this strategy was to contribute towards the overall achievement of the strategic priorities of the organisation, amplify the MHC's voice, and ensure that our audiences are aware of the functions of the organisation and the priorities on which we are focused.

The strategy outlined the MHC's communication goals and initiatives to support the rollout of the four-year 2023-2027 MHC Strategic Plan -'*Supporting Change*'. It was informed by the MHC's mission and vision and builds on the progress made through the 2019-2022 communications strategy, and an assessment of the MHC's public engagement activity.

Ultimately, the strategy has as its vision that 'the Mental Health Commission is recognised as an independent, accountable, evidenced-based and transparent organisation that promotes high quality person-centred services'.

The work of the communications function in 2023 centred largely around the launch of the Decision Support Service in April. The team developed and implemented an engaging and innovative nationwide public information campaign with the objective of ensuring that as many organisations, services, families and individuals as possible were aware of the Act and the DSS and the many meaningful benefits that they would both deliver to society.

With the support of experts by experience in the areas of disability and mental health - and who were representative of just some of the people who could become future potential users of the service - we developed a comprehensive campaign that incorporated television, radio, press, online, search and social media advertising elements. We chose our advertising platforms and channels according to our objectives and audiences.

Our advertising helped to increase visitors to the website from on average 4,000 unique visitors a month to 19,000 a month. The success of the initial 6-week campaign prompted a second burst from November to December 2023, which also performed well in reaching our target audiences.

The communications team continued to generate a high volume of traditional media activity during the year. This activity was based upon some key publications, such as the annual report, the interim and final CAMHS reports, and key activity and reports by the regulatory team, which the communications team published and publicised across the political, media and public arenas.

On the digital front, the team continued to increase engagement across both the MHC and DSS websites, on all social media channels, and generated a significant rise in subscribers to both the MHC and DSS newsletters.

We continued to facilitate stakeholder engagement presentations at MHC Board meetings with Members hearing from people with direct and relevant experience of illness, including representatives from Jigsaw, the Youth Advocacy Service, and HAIL. The team also organised consultative stakeholder forums on both mental health and decision support services with the objective of engaging with experts by experience to inform the ongoing work of the MHC.

In 2024, the communications team will continue to proactively engage with all stakeholders on issues that concern or relate to mental health and decision support services to help ensure that the strategic objectives of the MHC are being delivered.

2,341
mentions of MHC in Irish media, reaching over
160 million people

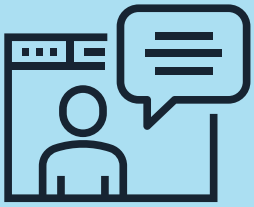
75
inspection reports published

6
overview reports published

31
press releases published

Over
200,000
unique visitors to the MHC website

More than
175,000
unique visitors to the DSS website



Over
17,000
followers on social media

1.3 million
views of video content

13
external newsletters issued

Almost **10,000 individuals** and **250 organisations** consulted across events, projects and forums

The launch of the Decision Support Service in April (L-R, DSS 'Champion', Florin Nolan; Minister Roderic O'Gorman, Minister Anne Rabbitte)

An event to mark the launch of the Decision Support Service (L-R, DSS 'Champions', Margaret Hurley, Helen Rochford-Brennan and Florin Nolan; John Farrelly, Chief Executive MHC; Áine Flynn, Director of the DSS; and DSS 'Champion', Lydia Fisher)

UCD Centre for Constitutional Studies Seminar (L-R, Aine Hynes SC, St John Solicitors LLP; Prof Eoin Carolan SC; Minister Roderic O'Gorman; Orla Keane, General Counsel MHC (DSS); Prof Laurent Pech, UCD Dean of Law; and Fiona McNulty, Mason Hayes & Curran LLP.)

Dublin Pride Parade 2023 (L-R, Aoife McMahon, DSS Head of Registration; John Farrelly, Chief Executive MHC; Áine Flynn, Director of the DSS; Taoiseach Leo Varadakar)


THE IRISH TIMES

Nine counties have fewer than five GPs providing abortion care

Ryan calls for major increase in size of State

Front page image on 'The Irish Times' of DSS 'Champions', Fionn Crombie Angus and Lydia Fisher marking the launch of the Decision Support Service in April

Launch of the Decision Support Service at Government Buildings (L-R, Lydia Fisher, DSS 'Champion'; Minister Mary Butler; Fionn Crombie Angus, DSS 'Champion'; John Farrelly, Chief Executive, MHC; Minister Roderic O'Gorman; Dr John Hillery, Chairperson of the MHC; Pat Schlaler; Pádraig Schaler, DSS 'Champion; Reinhard Schaler; Taoiseach Leo Varadaker; Minister Anne Rabbitte; Helen Rochford-Brennan, DSS 'Champion'; and Áine Flynn, Director of the DSS).

Members of the Board and Executive of the MHC at a monthly Board meeting at the MHC offices.

Some Members of the Board of the MHC: Back row, L-R, Dr John Cox, Dr Michael Drumm, Dr Orla Healy, Martina McGuinness. Front row, (L-R, Rowena Mulcahy, Dr Joseph Duffy, Dr John Hillery (Chair), Linda Curran)

Staff farewell at the retirement of Dr Susan Finnerty as the Inspector of Mental Health Services following 19 years service with the MHC

Dublin Pride Parade 2023: (L-R, Áine Flynn, Director of the DSS; Taoiseach Leo Varadkar; Aoife McMahon, DSS Head of Registration)

Minister Anne Rabbitte and Áine Flynn, Director of the DSS, marking National Sharing Day

Board Stakeholder Engagement: (L-R, John Farrelly, Chief Executive, MHC; Emma Curran, Jigsaw; Jason Smith, Jigsaw)

Board Stakeholder Engagement: (L-R, John Farrelly, Chief Executive, MHC; Catherine Carty, UNESCO Chair Manager, Munster Technological University; Dr John Hillery, Chairperson of the MHC; Sarah Carey, Munster Technological University)

The MHC and the World Health Organization (WHO) launch a new human rights-based approach to mental health care (L-R, Superintendent Michael J McNamara; Dr Michelle Funk, Head of WHO's Policy, Law and Human Rights Unit; Chief Superintendent Ann Markey from the human rights section in An Garda Síochána; and Chief Executive, MHC, John Farrelly)

The Royal College of Surgeons in Ireland (RCSI) pledge to promote a human rights-based approach to mental health (L-R, John Farrelly Chief Executive, MHC, Dr Mary Boyd, Dean RCSI Faculty of Nursing and Midwifery, Prof Mark White Executive Dean, RCSI Faculty of Nursing and Midwifery)

Nursing Homes Ireland pledge to promote a human rights-based approach to mental health at the launch of the World Health Organization's 'QualityRights Initiative' (L-R, Tadgh Daly, Chief Executive, NHI and John Farrelly Chief Executive, MHC)

Jigsaw pledge to promote a human rights-based approach to mental health at the launch of WHO's 'QualityRights Initiative' (L-R, Dr Joseph Duffy, CEO Jigsaw and John Farrelly Chief Executive, MHC)

Launch of the MHC National Quality Framework (L-R, Marie Carney, Associate Prof of Nursing at RCSI's Faculty of Nursing and Midwifery and Gary Kiernan, Director of Regulation, MHC)

Launch of the MHC Strategic Plan 'Supporting Change' (L-R, Brian Gillespie, Chief Operations officer MHC, and Claudia Carr, Manager, Bearing Point)

HSE Dublin North City and County CAMHS Service pledge to promote a human rights-based approach to mental health at the launch of WHO's 'QualityRights Initiative' (L-R, Principal Psychology Manager at the HSE's Dublin North City and County CAMHS, Dr Michael Drumm, and John Farrelly, Chief Executive, MHC)

Launch of the MHC National Quality Framework (L-R, Paul Mahon, Internim Operations and Educatyion Manager RCSI; Thomas Kearns, Executive Director, RCSI Faculty of Nursing and Midwifery; John Farrelly, Chief Executive, MHC; Marie Carney, Associate Prof of Nursing, RCSI Faculty of Nursing and Midwifery; Dr John Hillery, Chairperson of MHC; Gary Kiernan, Director of Regulation, MHC; and Prof Mark White, Executive Dean, RCSI Faculty of Nursing and Midwifery)

Members of the MHC Leadership Team at the launch of the MHC Strategic plan 'Supporting Change' (L-R, Gary Kiernan, Director of Regulation; Orla Keane, General Counsel; John Farrelly, Chief Executive; Dr Susan Finnerty, Inspector of Mental Health Services; and Áine Flynn, Director of the DSS)

Launch of 'The Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services' (L-R, John Farrelly, Chief Executive MHC; Dr Susan Finnerty, Inspector of Mental Health Services; Tammy Doherty, MHC Board Member; and Dr John Hillery, Chairperson of the MHC)

Chief Executive of the MHC, John Farrelly, and the Inspector of Mental Health Services, Dr Susan Finnerty, at the launch of 'The Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services'

The launch of the Decision Support Service at Government Buildings (L-R, Dr John Hillery, Chairperson of the MHC; Minister Mary Butler; John Farrelly, Chief Executive, MHC; Taoiseach Leo Varadaker; Minister Roderic O'Gorman; Áine Flynn, Director of the DSS; and Minister Anne Rabbitte)

UCD Centre for Constitutional Studies Seminar (L-R: Aine Hynes, SC St John Solicitors LLP; Fiona McNulty, Mason Hayes & Curran LLP; Prof Eoin Carolan SC; Orla Keane, General Counsel MHC (DSS)

Presentation at Joint Oireachtas Committee on Disability Matters to discuss the 'Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) (L-R, John Farrelly, Chief Executive, MHC; Dr John Hillery, Chairperson, MHC; Professor Jim Lucey, Inspector of Mental Health Services)

John Farrelly, MHC Chief Executive, with Dr Michelle Funk and Natalie Drew of the World Health Organisation at Government Buildings as part of the launch of the WHO 'Quality Rights' initiative, a new human rights-based approach to mental health care

Launch of the Decision Support Service at Government Buildings (L-R, Minister Anne Rabbitte; Taoiseach Leo Varadakar; Lydia Fisher, DSS 'Champion'; Minister Roderic O'Gorman; and Minister Mary Butler)

Launch of the Decision Support Service (L-R, DSS 'Champions', Paul Alford, Fionn Crombie Angus, Margaret Hurley and Lydia Fisher; Minister Mary Butler; DSS 'Champions' Pádraig Schaler, Blessing Dada, Helen Rochford Brennan, Justyna Maslanka and Florin Nolan; Ministers Roderic O'Gorman and Anne Rabbitte)

Newly-appointed Inspector of Mental Health Services, Professor Jim Lucey, on his first day in the role

Governance

The MHC is committed to attaining and maintaining the highest standard of corporate governance within the organisation.

The 2016 Code of Practice for the Governance of State Bodies (the 2016 Code) is the definitive corporate governance standard for all commercial and non-commercial state bodies in Ireland. The 2016 Code consists of one main standard and four associated code requirements and guidance documents. The 2016 Code was updated in November 2017 with a Guide for Annual Financial Statements, in September 2020 with an Annex on Gender Balance, Diversity, and Inclusion, and in June 2021 in relation to specific superannuation and remuneration proposals.

The MHC has procedures in place to ensure compliance with the provisions of the Code. All reporting requirements for 2023 have been met.

As required under the 2016 Code, the MHC has a formal schedule of matters specifically reserved for decision by the Commission (Board) to ensure that the organisation meets the highest standards of corporate governance. These reserved functions include planning and performance functions, board committees, financial transactions, internal controls, executive assurances, and risk management. The reserved functions are reviewed by the Board every second year or as otherwise required. In addition to this, the Board also has a Scheme of Delegation in place to ensure that the organisation can carry out all its statutory functions effectively and that senior management are confident that they have the delegated authority to carry out their statutory functions and make decisions.

The current Board was appointed in April 2022 and the following relevant matters were addressed at subsequent meetings in 2023.

May 2023 Meeting

Review and approval of:-

- The Corporate Governance Manual;
- Reserved functions of the Board;
- Scheme of Delegation;
- DSS Scheme of Delegation; and
- Code of Conduct.

Key Governance activities undertaken in line with the 2016 Code

Board effectiveness

In line with good governance, the Board undertook a self-assessment survey for 2023. This was considered by the Board at its meeting in January 2024.

In addition to this, consistent with governance best practice and the requirements of the 2016 Code, the MHC carried out its second external review in 2023. It engaged external providers via a tender process to independently conduct a Board effectiveness review and to report on its findings and make recommendations. This report was presented to the Board in July 2023. A set of actions arising from the report was agreed with a view to further improving the effectiveness of the MHC and its committees. The Board has taken ownership of these actions, which have been monitored and updated throughout 2023.

The Finance, Audit and Risk Committee (FARC) also undertook a self-assessment for 2023. The Legislation Committee did not undertake a self-assessment having only met twice during the year as that was all that was required during 2023.

Gender balance in the Board membership

As of 31 December 2023, the Board had 5 (38%) male and 8 (62%) female members. The Board was in compliance with the statutory requirements of the Mental Health Acts, which is no less than four women or no less than four men. The Board also meets the Government target of a minimum of 40% representation of women but is just below the 40% requirement for men. This latter point will be referred to the Department of Health in relation to future appointments, of which there will be three in 2025[11].

Code of conduct, ethics in public office, additional disclosures of interest by board members and protected disclosures

For the year end 31 December 2023, the Board confirms that a code of conduct was in place and adhered to. Furthermore, all board members and relevant staff members declared that they were in full compliance with the relevant statutory

[11] The tenure of three members ends in April 2025. These members will be replaced in accordance with the Mental Health Acts, including any amendments in the interim.

responsibilities under the Ethics in Public Office legislation. As per the above, this is one of the governance documents reviewed and updated in 2023.

Committees

In 2023, the Legislation Committee met on two occasions, in February and December.

The FARC (Finance, Audit and Risk Committee) held five meetings in 2023 and its annual report was provided to the Board in March 2024.

The report considered the following:

- Membership and Meetings in 2023
- Stakeholder Relationships
- External Audit (C&AG - Mazars)
- Annual Financial Statements for 2022
- Internal Audit
- Management Accounts and Budget for 2023
- Risk Management System and Strategic Risk and Opportunities Register
- ICT
- Governance and Internal Control/Internal Financial Control
- Protected Disclosures
- FARC Performance Management

There were seven internal audit reports approved by the FARC in 2023 as follows:-

- Annual Assurance Report (March 2023 – refers to previous year)
- Review of Contract Management for the Decision Support Service (March 2023) (conducted in fourth quarter of 2022)
- Review of ICT Security and Systems (March 2023 – conducted in fourth quarter of 2022)
- Review of Outsourcing and Contract Management (March 2023 – conducted in fourth quarter of 2022)
- Tribunal – Data Protection Review (June 2023)
- Standards and Quality Assurance Enforcement and Monitoring Review (August 2023)
- Travel and Subsistence Review (November 2023)

Two further audits were commenced in 2023 but those reports were not considered by FARC in 2023:

- Cyber Security Review
- Review of Workforce Management and Development

Risk Management

The effective management of organisational risk requires robust internal control processes to be in place to support the senior leadership team in achieving the MHC's objectives and in ensuring the efficiency and effectiveness of operations.

In carrying out its risk management responsibilities in 2023, the MHC adhered to three main principles of governance:

1. Openness
2. Integrity
3. Accountability

A significant part of the work programme of the FARC is the oversight role it plays in the risk management process for the organisation.

The Strategic Risk and Opportunities Register ("SROR") was considered quarterly by the senior leadership team, which was in turn reviewed by the FARC, who then presented it to the Board. Risk was a standing item on the agenda for each board meeting and the Chief Risk Officer reported on any significant events affecting the working environment of the MHC at each meeting.

Relations with Oireachtas, Minister and Department of Health

Department of Health: Governance meetings between the Department and the Executive took place in March, June, September, and December 2023. Oversight and performance delivery agreements were signed for 2023. Minutes were recorded and retained of all meetings.

Department of Children, Equality, Disability, Integration and Youth: Governance meetings between the Department and the Executive took place in March, June, September, and December 2023. A Governance and Service Level Agreement was agreed and signed in 2023. Minutes were recorded and retained of all meetings.

It was agreed with the Department of Health and the Department of Children, Equality, Disability, Integration and Youth that the Department of Health would remain the parent department of the MHC.

The MHC had no legal disputes with any other state agency or government body, save in its role as a regulator of approved centres.

Data Protection

The MHC is fully committed to the protection of the rights and freedoms of individuals whose personal data it holds. Throughout the year, it convened an Information Governance Group to address information matters on behalf of the MHC – including issues pertaining to Data Protection and Freedom of Information.

Access Requests

In 2023, eight Data Subject Access Requests were made under data protection legislation. At year-end, two cases remained open.

Erasure Requests

In 2023, two Requests for Erasure were made under data protection legislation. As of the end of the year, decisions had been issued in relation to both.

All requests for information under data protection legislation were from persons who were seeking medical records or records held by the MHC specifically.

Freedom of Information

Under the Freedom of Information Act 2014, the MHC is designated an FOI body. In compliance with this legislation, it provides its Freedom of Information Publication Scheme on the organisation's website and processes requests for information on a continuing basis.

Requests

In 2023, the MHC received 35 requests under the Freedom of Information Act 2014 with nine requests carried over from 2022.

Under the Freedom of Information Act 2014, the MHC is designated an FOI body. In compliance with this legislation, it provides its Freedom of Information Publication Scheme on the organisation's website and processes requests for information on a continuing basis.

Of the 35 requests received in 2023, none were granted in full, seven were part-granted, ten were withdrawn, none were transferred, nine were refused and six were handled outside of FOI. At year-end, three cases remained open.

Of the 35 requests received in 2023, 15 were personal requests, 18 were non-personal requests and two were a mix of personal and non-personal requests. Almost all of the personal requests under the Freedom of Information Act 2014 were from persons who were seeking medical records or records held by the MHC specifically for themselves or someone on whose behalf they were acting.

The details of non-personal requests have been published on the MHC website (www.mhcirl.ie) under the Freedom of Information Publication Scheme.

Health Act 2007 (Part 14) and Protected Disclosures Act 2014[12]

Under Section 22 of the Protected Disclosures Act 2014, a public body is required to publish an annual report outlining the number of protected disclosures received in the preceding year and any actions taken in response to such disclosures.

For the year ended 31 December 2023, the MHC had procedures in place for the making of protected disclosures in accordance with the relevant legislative requirements.

[12] The Protected Disclosures Amendment Act 2022 came into effect on 1 January 2023. The MHC has updated its Protected Disclosures Policies to comply with the amending legislation and will comply with all requirements under the amended Act.

There were 13 reports made under the MHC's protected disclosure policy to the MHC during 2023.

In 2023, the MHC updated the Protected Disclosure policies (internal and external) in line with new legislation. The revised policies were approved by the FARC and the Board in January 2023.

Children First Act 2015

The Children First Act 2015 was commenced on 11 December 2017. The MHC is not a "relevant service" as defined in the 2015 Act. However, the MHC may still employ "mandated persons" as defined in the 2015 Act. A register of mandated persons within the MHC is maintained and was updated during 2023. The MHC's policy for reporting of child protection and welfare concerns has been in place since January 2018 and has been updated regularly. No events were reported to the MHC during 2023.

Section 42 of the Irish Human Rights and Equality Act 2014

Section 42 of the Irish Human Rights and Equality Act 2014 places a legal obligation on all public bodies in Ireland to promote equality, prevent discrimination and protect the human rights of their employees, customers, service users, and everyone affected by their policies and plans.

In 2023, the MHC included reference to its obligations in its Strategic Plan - "*Supporting Change, 2023-2027*". The 2023 business plan required divisions to carry out a human rights and equality assessment setting out goals.

The MHC public duty working group was restructured in 2023 to develop a work plan for 2024 and to review and update the existing Public Sector Equality and Human Rights Duty Plan, which was approved in November 2020 (and subsequently updated). This working group met once in 2023.

Climate Action

The MHC fulfils its reporting requirements under S.I.426 of 2014 by reporting through the SEAI Monitoring and Reporting System.

In line with Government guidelines and the obligations on all public bodies, the MHC is fully committed to achieving its targets and reducing its carbon footprint.

- 51% reduction in greenhouse gas (GHG) emissions by 2030
- 50% improvement in energy efficiency by 2030

The latest results available relate to 2022 data as published in the Annual Report 2023 on Public Sector Energy Performance. These indicate that we are on track to achieve the 2030 targets.

ENERGY PERFORMANCE				GREENHOUSE GAS EMISSIONS							
2022 energy consumption		Energy Performance Indicator		Fossil CO2 emissions				Total CO^2 emissions			
Final GWH	Primary GWH	2030 target	Change since EE Baseline	GHG baseline tCO_2	2020 tCO_2	2030 target tCO_2	Change since GHG baseline	GHG baseline tCO_2	2020 tCO_2	2030 target tCO_2	Change since GHG baseline
0.1	0.2	-50%	-72%	23.2	9.7	11.4	-58%	59.4	28.6	19.3	-52%

2023 data was not available at time of publication. The Climate Action Roadmap will be updated with this information once available.

The Climate Action Roadmap is a document that communicates how the MHC plans to meet the requirements of the Public Sector Mandate. The first iteration of our Climate Action Roadmap was implemented in March 2023 with the second iteration implemented in September 2023.

In compliance with Circular 1/2020: The MHC makes a payment to the Fund Manager of the statutory Climate Action Fund to offset its greenhouse gas emissions in respect of official air travel.

Offsetting Emissions Relating to Air Travel				
Year	**CO2 Kg's**	**Tonne**	**Cost per Tonne**	**Cost**
2022	628.6	0.6286	€41.00	€25.77
2023	1339.6	1.3396	€48.50	€64.97

Achievements in 2023

- The MHC participated in the 2022/2023 Reduce Your Use Campaign (September 2022 – March 2023). With this and blended working, the MHC had a 37% reduction in electricity use compared to the same period of 2019/2020.
- The MHC Building Register was updated, and the first stage of the Building Stock Plan was completed in December 2023.
- The Senior Leadership Team completed Climate Leadership Training.
- Staff were invited to complete a sustainable transport survey to gather information on ways we can work together to reduce our carbon footprint.

Future Plans

- Participate in the 2023/2024 Reduce Your Use Campaign.
- Seek to upgrade to high-efficiency LED lighting.
- Apply for the Smarter Travel Mark.
- Provide Climate Leadership Training for Board Members and further training the Senior Leadership Team.

Business and financial reporting

The Department of Health's allocation to the MHC for 2023 was €17.266m. The amount drawn down was €17.266m. The MHC received an additional €0.118m as an ICT Capital Grant from the Department of Health.

Key areas of expenditure related to the statutory functions as set out in the 2001 Act, primarily the provision of mental health tribunals and the regulation of approved centres plus the independent review of Child and Adolescent Mental Health Services by the Inspector of Mental Health Services.

Other expenditure related to staff salaries, rent, professional fees, ICT, and related technical support. Third party support contracts continue to be managed to ensure value for money and the achievement of service delivery targets.

The Department of Children, Equality, Disability, Integration and Youth's allocation for the Decision Support Service for 2023 was €8.464m. The amount drawn down was €8.464m. The DSS received an additional €0.300m from the HSE National Office for Human Rights and Equality Policy, Strategy and Research to partially fund a public information campaign to launch the Decision Support Service. A further €0.015m was received from DCEDIY for Services with Synergy Learning, and €0.022m was received with respect to DSS Registration fees in 2023.

The MHC can confirm that all appropriate procedures for financial reporting, internal audit and asset disposals were adhered to. Furthermore, the MHC can confirm that it adhered to the Public Spending Code and the Government travel policy requirements.

The MHC approved the draft unaudited Annual Financial Statements (AFS) and agreed that they represent a true and fair view of the MHC's financial performance and position at the board meeting in March 2024. It is expected that the final audited annual financial statement shall be presented to the board at the June Board meeting in 2024.

The MHC has included a Statement on the System of Internal Control in the format set out in the 2016 Code in the unaudited financial statements for 2023.

The unaudited AFS for 2023 were submitted to the Comptroller and Auditor General (C&AG) as per Section 47 of the Mental Health Act 2001 and the 2016 Code. The 2023 annual audited financial statements of the MHC will be published on the website (www.mhcirl.ie) as soon as they are available.

Prompt payment of account legislation

The MHC complied with the requirements of the Prompt Payment of Accounts legislation and paid 95.89% of valid invoices within 15 days of receipt. To meet this target, strict internal timelines are in place for the approving of invoices. Details of the payment timelines are published on the website (www.mhcirl.ie).

Maastricht returns

In 2023, the MHC complied with the requirement to submit a Maastricht Return to the Department of Health.

Procurement

In 2023, the MHC undertook three EU tendering processes, one mini competition under an OGP Framework and ten competitions that were below €50k plus VAT in value.[13]

Twenty-four contract extension notices were agreed as permitted under the agreed terms of contract.

The MHC Corporate Procurement Plan for 2023 was approved by FARC on 16 March 2023. The MHC Procurement and Contracts Manager worked with all MHC divisions to ensure forecasting and planning for the procurement of goods and services in line with best practice guidelines and the MHC Procurement and Contracts Policy.

Information and Communications Technology (ICT)

The key focus for ICT within the MHC is to provide a resilient and secure framework of information services to support all aspects of the MHC's activities. This includes the implementation and configuration of corporate ICT systems, as well as supporting the underlying technology.

> During 2023, the MHC has taken a proactive approach to cybersecurity with both network intrusion prevention systems in place and third-party network monitoring.

During 2023, the MHC has taken a proactive approach to cybersecurity with both network intrusion prevention systems in place and third-party network monitoring. The MHC is conducting on-going cybersecurity staff training and will continue to keep the MHC's systems under review and up to date. The MHC is currently upgrading its server systems to further improve the recovery of systems and data in the event of a disaster.

Human resources

The Human Resources function plays a significant role in developing positive culture and improving employee engagement and productivity. Treating our employees fairly and providing them with opportunities to grow assists the MHC to realise its strategic objectives.

In Q4 of 2023, the MHC had 139 employees.

Performance management

The Performance Management and Development System (PMDS) was successfully carried out in 2023 for all eligible employees with a focus on upskilling people managers to look for opportunities for staff development when conducting performance evaluations.

Employee Assistance Service

The MHC's Employee Assistance Programme (EAP), provided by an external provider on a

[13] Per the revised Circular 05/2023

24/7/365 basis offers a free, professional service for employees and their families to resolve personal or work-related concerns.

Blended Working

The MHC continued to use a Blended Working Policy as part of its commitment to embracing opportunities for remote and blended working and to build a more dynamic, agile and responsive organisation, while sustaining strong standards of performance and high levels of productivity. The policy provided a procedure for staff employed by the MHC to apply for blended working arrangements.

Supports for Employees with Disabilities

The HR team provides an Access Officer to provide a progressive working environment and, in line with equality legislation, promotes equality of opportunity for all employees. The National Disability Authority (NDA) has a statutory duty to monitor the employment of people with disabilities in the public sector on an annual basis. In line with Government commitment to increasing the public service employment target for persons with disabilities on an incremental basis from a minimum of 3% to a minimum of 6% by 2024, HR is responsible for the statutory reporting, both quantitatively and narratively, to the NDA. In 2023, through the response of the NDA staff census returns, the MHC reported a rate of 7% of their employee base as having a disability.

Training and development

In 2023, training activities were delivered to build competence in job functions and work practices and to encourage professional development.

Recruitment

There has been a strong focus on recruitment, with the additional staffing requirements of the DSS, and this has given the MHC the opportunity to attract new talent while also providing further career development opportunities to existing staff. Twenty-seven recruitment competitions were run in 2023.

Appendices

Appendix 1 – *Mental Health Commission Membership and Meeting Attendance 2023*

No	Name	19 /01	16/ 02	23/ 03	18/ 05	29/ 06	27 /07	21/ 09	19/ 10	16/ 11	14/ 12	Total
1	Dr John Hillery	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	**10/10**
2	Rowena Mulcahy	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	**9/10**
3	Dr Margo Wrigley	Y	Y	Y	N	Y	Y	Y	N	Y	Y	**8/10**
4	Dr Michael Drumm	Y	N	Y	Y	N	N	Y	Y	Y	Y	**7/10**
5	*Fionn Fitzpatrick	N	N	N	N	N	N	N	Y	Y	N	**2/10**
6	Dr John Cox	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	**10/10**
7	Ray Burke	N	Y	Y	Y	Y	N	Y	Y	Y	Y	**8/10**
8	Dr Joseph Duffy	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	**10/10**
9	Tammy Donaghy	N	Y	N	Y	Y	Y	Y	Y	Y	Y	**8/10**
10	Dr Orla Healy	Y	Y	Y	Y	Y	Y	Y	N	N	Y	**8/10**
11	Martina McGuinness	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	**9/10**
12	Linda Curran	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	**9/10**
13	Catherine Cocoman	Y	N	Y	Y	Y	Y	Y	N	Y	Y	**8/10**

*absent for personal reasons

Appendix 2 – *FARC Membership and Meeting Attendance 2023*

Committee	5 January	16 March	22 June	11 September	4 December	Total
Dr Orla Healy (Chair) (CM)	Y	Y	Y	Y	Y	5/5
Dr John Cox (CM)	N	Y	Y	Y	N	3/5
Martina McGuinness (CM)	Y	Y	Y	Y	Y	5/5
Kevin Roantree (EM)	Y	Y	Y	Y	Y	5/5
Audrey Houlihan (EM)	Y	Y	N	Y	Y	4/5
Cliff O'Keeffe (EM)	Y	N	Y	Y	Y	4/5
Dearbhla Fitzsimons (EM)	n/a [14]	Y	N	Y	Y	3/4
Josephine O'Reilly (EM)	n/a [15]	Y	Y	Y	N	3/4

(CM = Commission Member and EM = External Member)

Appendix 3 – *Legislation Committee Membership and Meeting Attendance 2023*

Committee Member	9 February	4 December	Total
Dr Michael Drumm (Chair) (CM)	Y	Y	2/2
Ray Burke (CM)	Y	Y	2/2
Linda Curran (CM)	Y	Y	2/2
Teresa Blake (EM)	Y	Y	2/2
Mary Donnelly (EM)	Y	Y	2/2

(CM = Commission Member and EM = External Member)

[14] Appointed to the FARC on 10 March 2023.

[15] Appointed to the FARC on 10 March 2023.

Appendix 4 Mental Health Tribunal Information

Table 1: *Breakdown of Mental Disorder on admission/renewal as defined in section 3 of the 2001 Act for the period 26 April 2023 -31 December 2023*

Category	Form 6	%	Form 13	%	Form 7	%	Total	%
3(1)(a) only	101	7%	25	7%	10	1%	136	5%
3(1)(b) only	855	65%	230	61%	647	86%	1732	71%
3(1)(a) and 3(1)(b)	364	28%	119	32%	98	13%	581	24%
Total	1320		374		755		2449	

The Consultant Psychiatrist gives their opinion that the patient continues to suffer from a mental disorder where:

3(1)(a) because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons,

OR

3(1)(b)(i) because of the severity of the illness, disability or dementia, the judgement of the person concerned is so impaired that failure to admit the person to an Approved Centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission,

AND

3(1)(b)(ii) the reception, detention and treatment of the person concerned in an Approved Centre would be likely to benefit or alleviate the condition of that person to a material extent.

OR 3(1)(a) (as above) and 3(1)(b) (as above).

Figure 1: *Monthly Involuntary Admissions 2023*

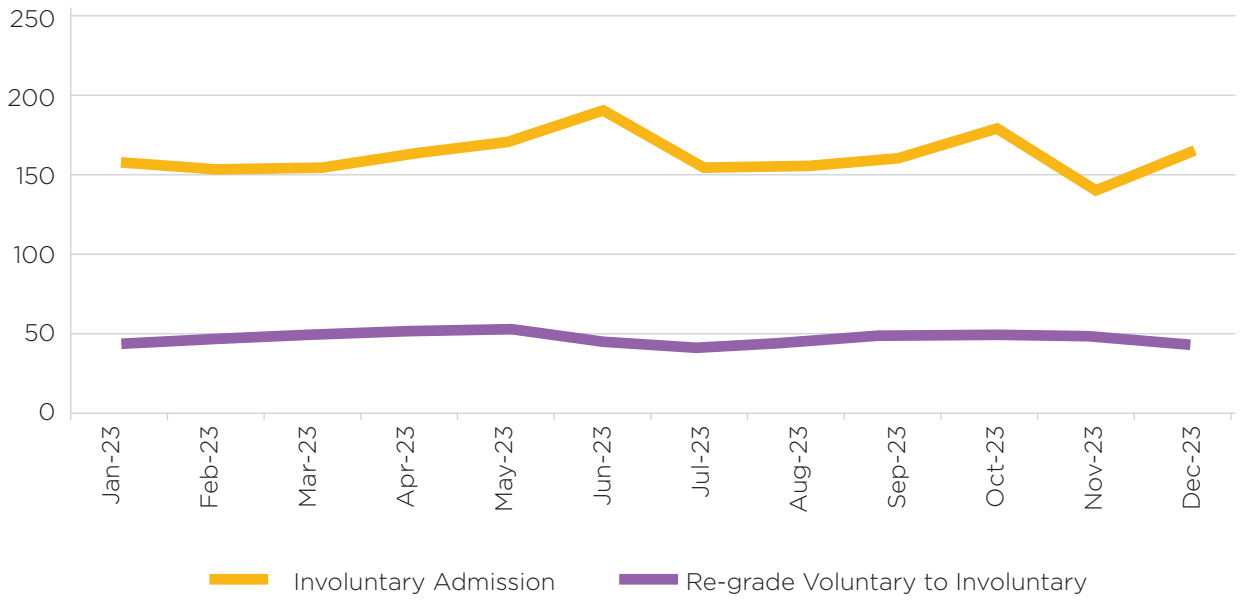


Figure 2: *Comparisons of total involuntary admissions 2019-2023*

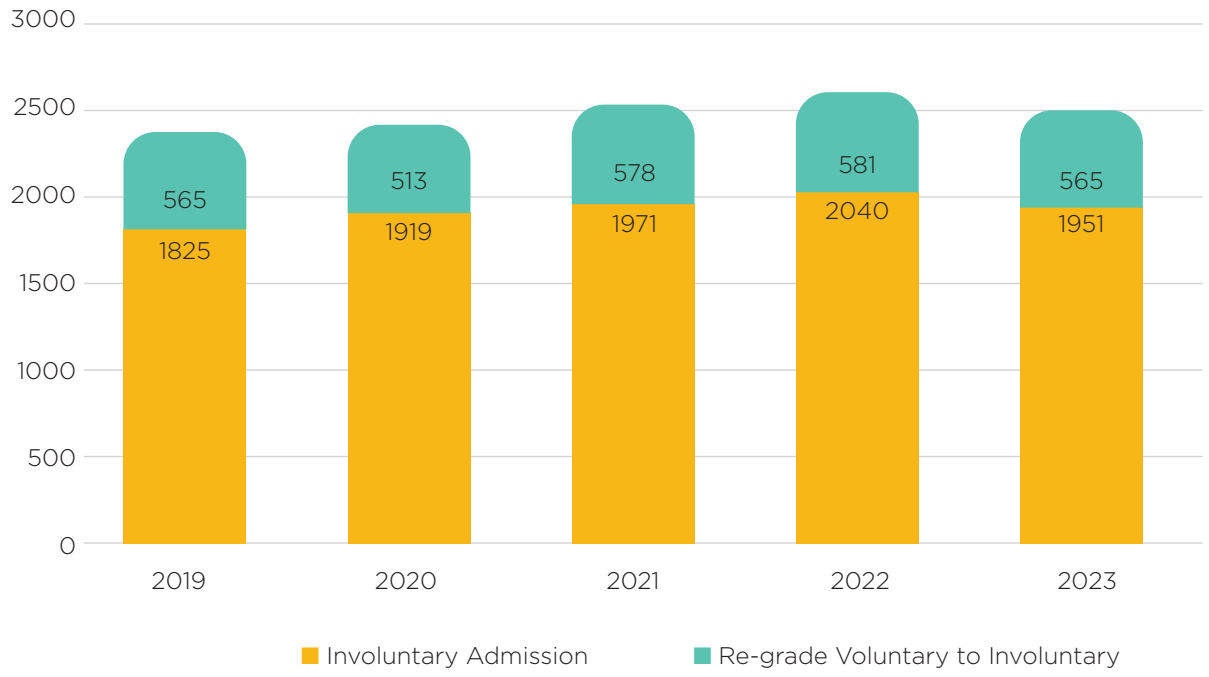


Figure 3: *Comparison of renewal orders 2019-2023*

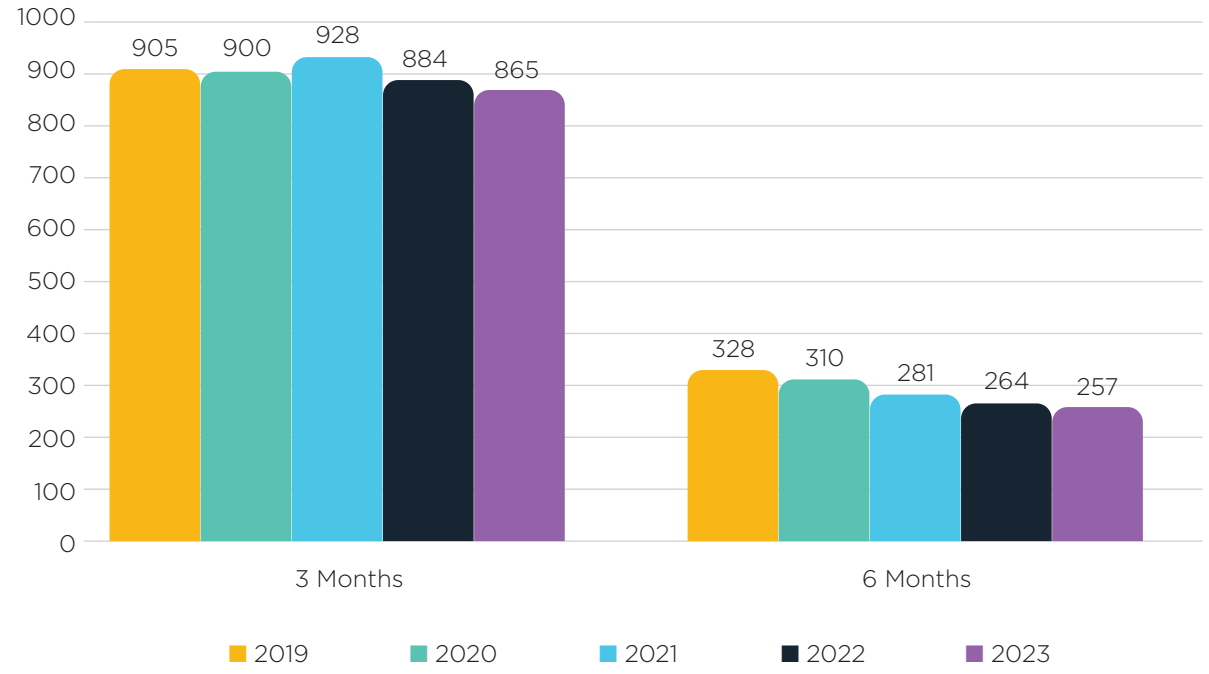
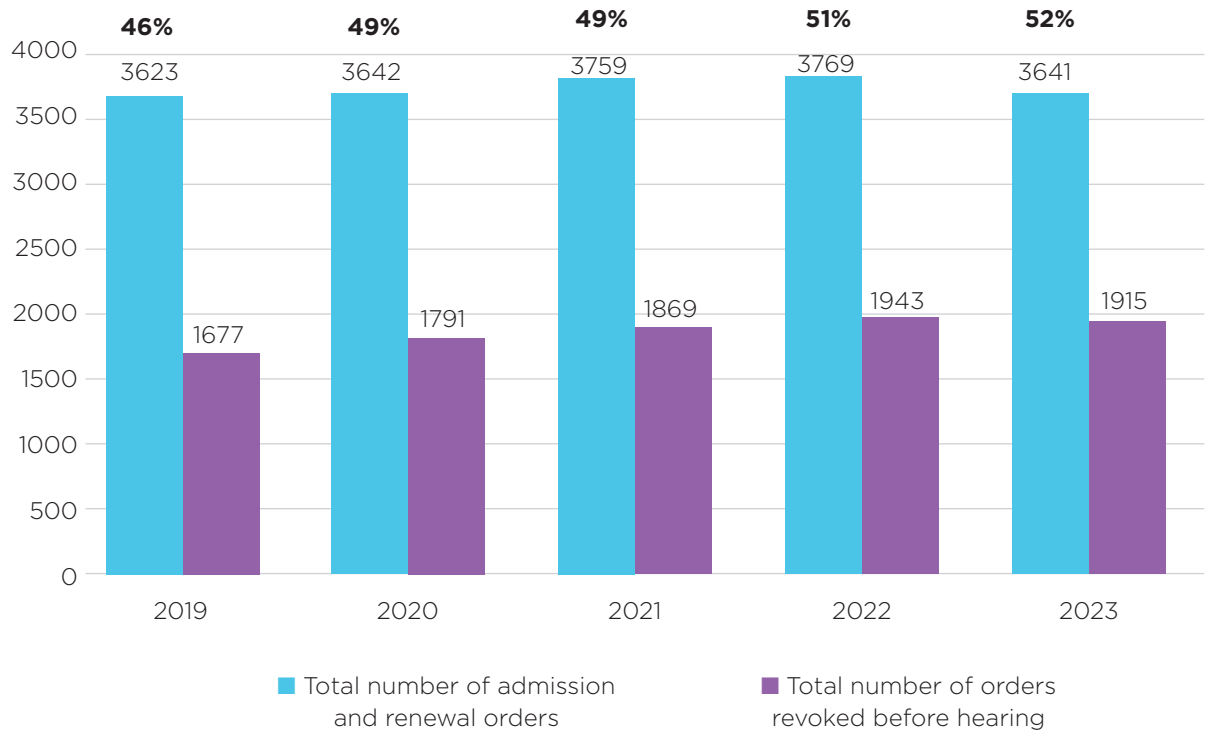


Table 2: *Involuntary Admission Rates for 2023 (Adult) by CHO Area and Independent Sector*[16]

	Involuntary Admissions	Re-grade Voluntary to Involuntary	Total Involuntary Admission Rate
CHO1	132	37	169
CHO2	207	49	256
CHO3	147	29	176
CHO4	321	114	435
CHO5	161	55	216
CHO6	144	22	166
CHO7	266	58	324
CHO8	219	48	267
CHO9	283	92	375
Independent Sector	71	61	132
TOTAL (Exclusive of Independent sector)	1,880	504	2,384
TOTAL (Inclusive of Independent sector)	1,951	565	2,516

Figure 4: *Number of Orders Revoked before Hearing by Responsible Consultant Psychiatrists for Years 2019 to 2023*



[16] There are eight independent approved centres

Figure 5: *Analysis of Applicants for Involuntary Admissions from the Community in 2023*

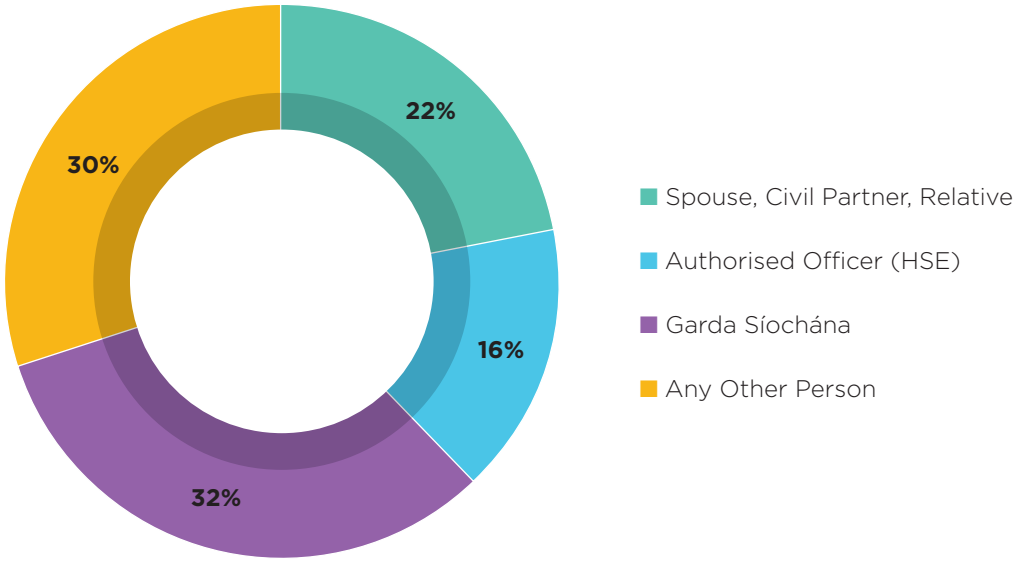


Figure 6: *Analysis of Applicants of Involuntary Admissions from Community from 2014 to 2023*

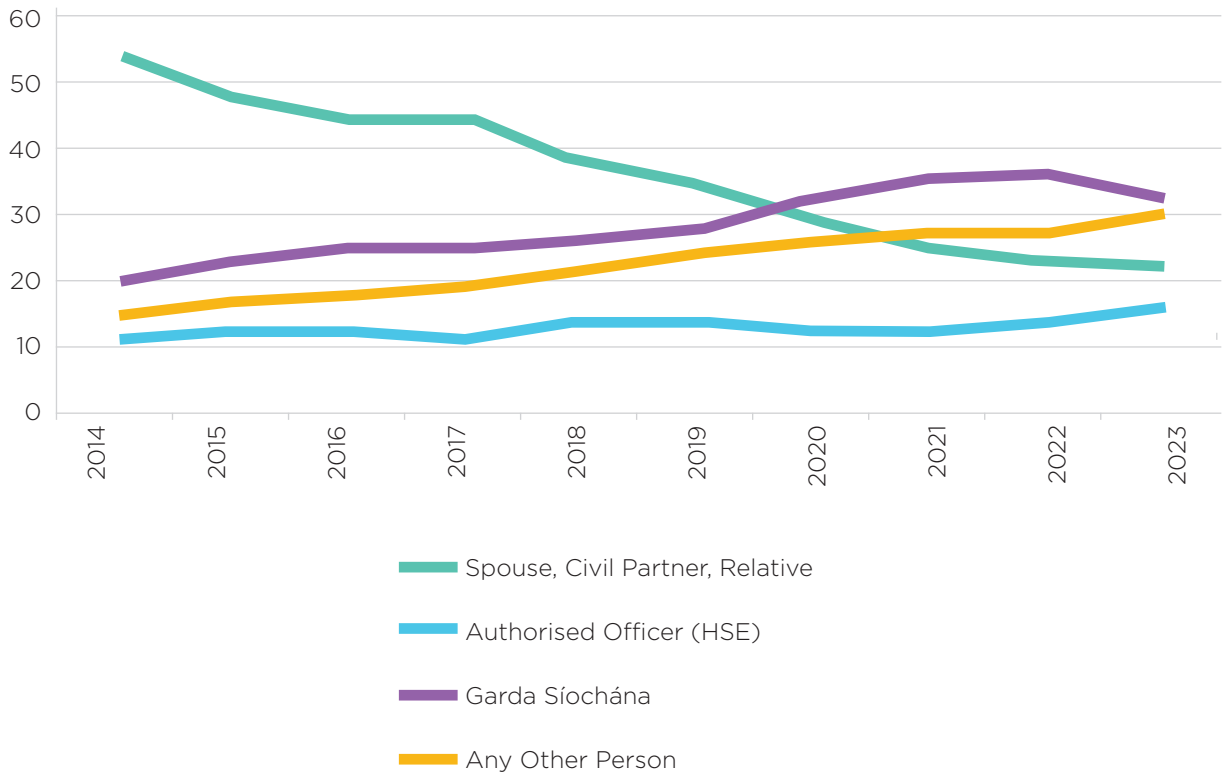


Figure 7 *Breakdown of Hearings in 2023 over 21 day period*[17]

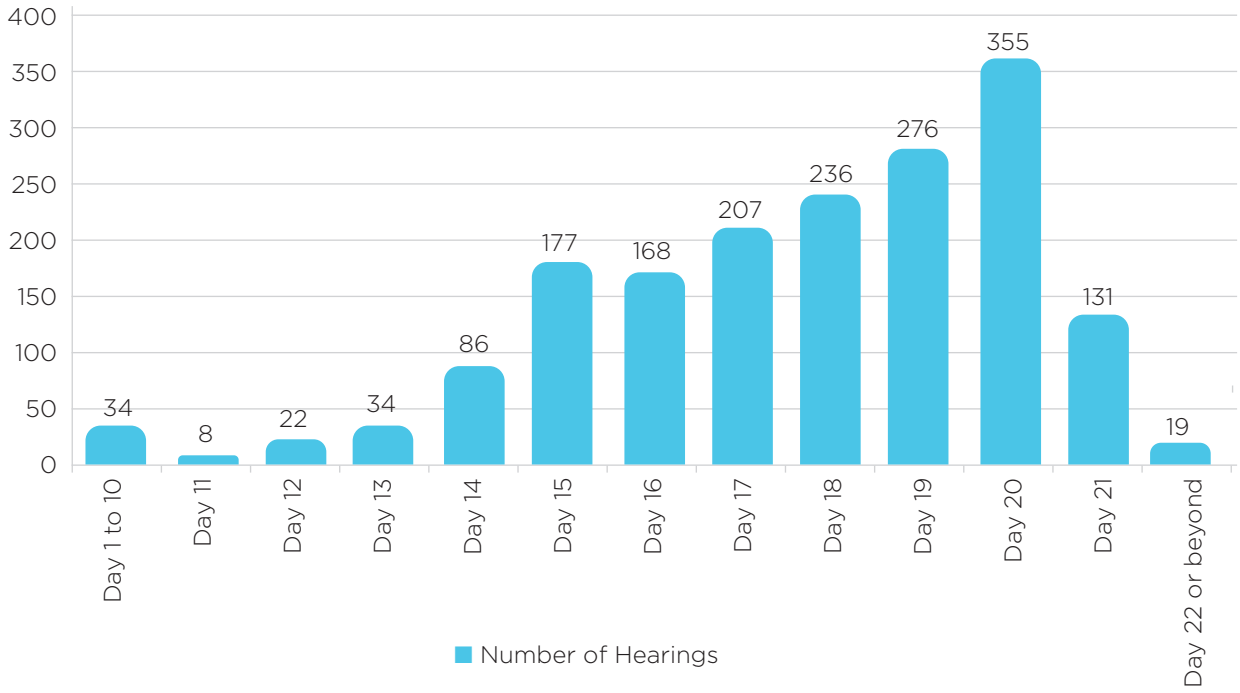
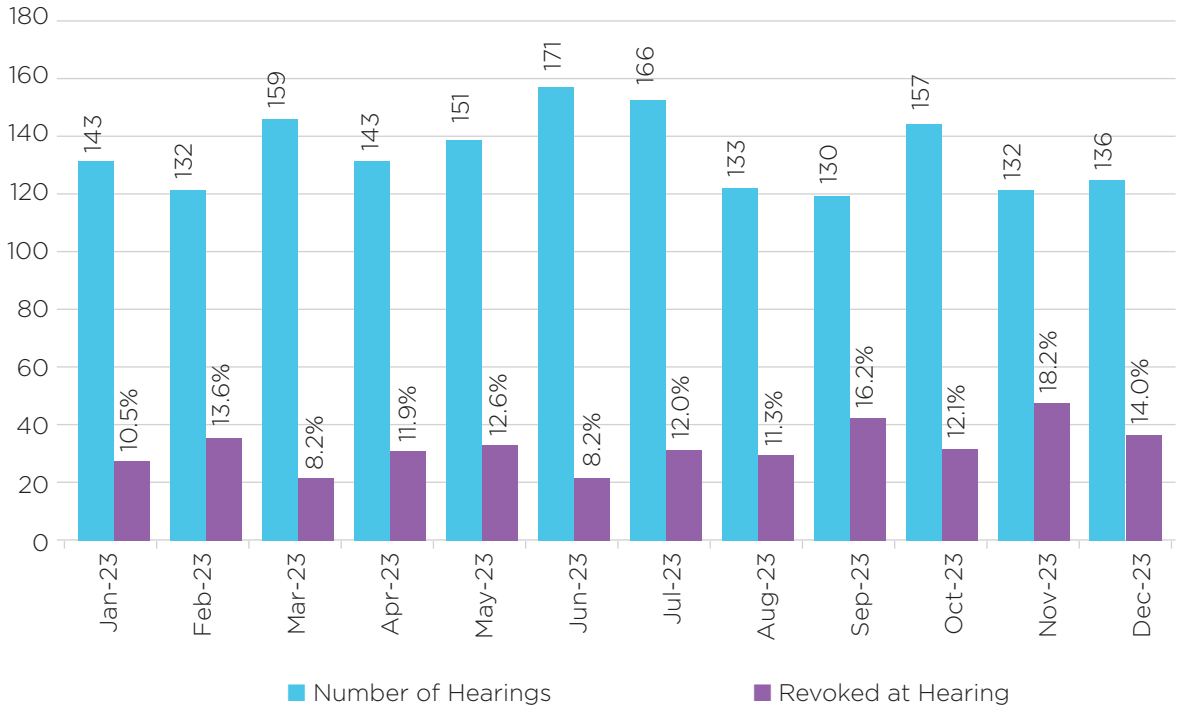


Figure 8: *Number of hearings and % of orders revoked at hearing 2023*



[17] In relation to the hearings heard after the 21 days these relate to hearings that were extended (as allowed under the Act) or relate to section 28 hearings after an order is revoked.

Figure 9: *Summary of Revoked Decisions*

No	Issues	Number of Revocations	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	No mental disorder (section 3 not met)	132	8	9	9	10	13	9	11	10	15	11	15	12
2	Errors with sections 9 to 12 (applications and recommendations for involuntary admission) and the related Forms	26	3	3	1	2	1	1	2	1	1	0	7	4
3	Errors with sections 14 and 15 (admission and renewal orders for involuntary admission) and the related Forms	22	2	3	0	2	1	2	3	1	1	3	2	2
4	Patient Notification Form issues (information to be provided to the patient from the admission and renewal orders)	13	0	0	0	2	3	1	3	3	1	0	0	0
5	Errors with sections 23 and 24 (admission order where someone is regraded) and the related Form	13	2	2	1	1	1	1	1	1	1	1	0	1
6	Other non-compliance issues to those referred to above	1	0	0	0	0	0	0	0	0	1	0	0	0
7	No mental disorder (section 3 not met) and non-compliance issues	8	0	1	2	0	0	0	0	0	1	4	0	0
	Total	215	15	18	13	17	19	14	20	16	21	19	24	19

Table 3: *Analysis by Gender and Age of 2023 Involuntary Admissions*

Age	Male	Female	% gender
18 – 24	200	122	62% male
25 – 34	341	216	61% male
35 – 44	288	288	50% male/50% female
45 – 54	203	250	55% female
55 – 64	121	162	57% female
65 +	140	185	57% female
Total	1,293	1,223	51% male

Table 4: *Analysis by Gender and Admission type of 2023 Involuntary Admissions*

Gender	Form 6	Form 13	Total	%
Female	909	314	1,223	49%
Male	1,042	251	1,293	51%
Total	**1,951**	**565**	**2,621**	**100%**

Table 5: *Analysis by Gender, Age and Admission type of 2023 Involuntary Admissions*

Age	Form 6	Form 6 Female	Form 6 Male	Form 13	Form 13 Female	Form 13 Male	Total	%
18 – 24	225	73	152	97	49	48	322	13%
25 - 34	424	154	270	133	62	71	557	22%
35 - 44	462	225	237	114	63	51	576	23%
45 - 54	375	197	178	78	53	25	453	18%
55 - 64	215	120	95	68	42	26	283	11%
65 and over	250	140	110	75	45	30	325	13%
Total	**1,951**	**909**	**1042**	**565**	**314**	**251**	**2,516**	**100%**

Notes

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